

APPENDIX F

FOIL POLICY, as last amended July, 2009

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**RULES AND REGULATIONS GOVERNING PUBLIC ACCESS TO RECORDS
OF THE COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL
DEVELOPMENT AGENCY IN ACCORDANCE WITH ARTICLE 6 OF THE
PUBLIC OFFICERS LAW OF NEW YORK STATE**

Pursuant to Article 6 of the New York State Public Officers Law, the following rules and regulations are hereby adopted governing public access to records of the Counties of Warren and Washington Industrial Development Agency (the "Agency").

Section 1. Purpose.

The New York State Legislature has determined that the people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society and, therefore, has declared that government is the public's business and that the public, individually and collectively and represented by free press, should have access to the records of government in accordance with the provisions of Article 6 of the Public Officers Law ("POL"). Therefore, the purpose of this regulation is to set forth the rules and regulations governing the availability, location and nature of those records of the Agency pursuant to the provisions of Article 6 of the Public Officers Law, known as the Freedom of Information Law.

Section 2. Definition.

For purposes of these rules and regulations:

- (a) the term "**record**" means any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.
- (b) the term "**business day**" means any day except Saturday, Sunday, or a public holiday.

Section 3. Procedure for Obtaining Records.

- (a) Any person who wishes to inspect or obtain a copy of any record may request access to the record by making application to the Agency's Office Administrator (the "Records Management Officer"). Such application shall be in writing and shall

reasonably describe the record or records sought. Whenever possible a person requesting records shall supply information that may help to describe the records sought.

Application forms which comply with law may be obtained from the Records Management Officer either personally or on any business day at the office of the Records Management Officer, or by mail (or fax) addressed to such office.

(b) Requests for access to records may be submitted to the office either personally, at such office on any business day between the hours of 9:00 a.m. and 4:00 p.m., or by mail (or fax) addressed to such office. Within five (5) business days of receipt of a request, the Records Management Officer shall cause a search to be made for the requested record and shall take one of the following courses of action:

1. Make the record available (and, if requested, make a copy of the record and collect the appropriate fee and/or certify the record).
2. Deny the request pursuant to Section 7, herein.
3. State that the record is not in the custody of the Agency.
4. State that the record cannot be located after a diligent search.
5. Furnish an acknowledgment of receipt of the request and provide an approximate date for reply regarding the grant or denial of access to the record. If documents which are responsive to the request cannot be provided with twenty (20) days from the date of acknowledgment, the reply must state:
 - i. The reason why the documents cannot be provided within the twenty (20) day period; and
 - ii. A specific date as to when the request will be granted or denied, in whole or in part. Such time period must be reasonable in light of the volume of the request, time to search, other circumstances, etc.

(c) The Records Management Officer, upon advice of Agency Counsel, may waive compliance with any formality prescribed by this section, including the use of application forms.

Section 4. Subject Matter List.

- (a) The Records Management Officer shall maintain and make available for inspection and copying:
 - 1. A record of the final vote of each member in every proceeding in which the member votes;
 - 2. A record setting forth the name, public officer address, title and salary of every officer or employee of the Agency; and
 - 3. A reasonably detailed list by subject matter, of records in the possession of the Agency whether or not available under Article 6 of the Public Officers Law.

Section 5. Fees.

The fees for copies of records shall not exceed twenty-five cents (\$0.25) per copy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record, including electronic records, in accordance with the provisions of POL Article 6, Section 87, as it may be amended from time to time (a copy of the current version is attached at the date of the adoption of this policy), except when a different fee is otherwise prescribed by law.

Section 6. Prevention of Invasion of Privacy.

In accordance with the provisions of Subdivision 3 of Section 88 of the POL and in conformity with such advisory guidelines as may be promulgated by the Department of State Committee on Open Government regarding the prevention of unwarranted invasions of personal privacy, the Records Management Officer, upon advice of Agency Counsel, may delete (or cause to be deleted) from any record identifying details, the disclosure of which would result in an unwarranted invasion of personal privacy, prior to making such record available for inspection and/or copying. In the event that one or more deletions are made from any record, the Records Management Officer shall provide written notice of that fact to the person given access to the record.

Section 7. Grant or Denial of Access to Records.

The Records Management Officer, in accordance with these rules and regulations and the provisions of POL, Article 6, Section 89, as it may be amended from time to time

(a copy of the current version is attached at the date of the adoption of this policy), shall make available for public inspection and copying all records, except that access may be denied to records or portions thereof that:

- (a) are specifically exempted from disclosure by state or federal statute;
- (b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of section 89(2)(b) of the Public Officers Law;
- (c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- (d) are trade secrets or are submitted to the 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;
- (e) are compiled for law enforcement purposes and which, if disclosed, would:
 - I. interfere with law enforcement investigations or judicial proceedings;
 - ii. deprive a person of a right to a fair trial or impartial adjudication;
 - iii. identify a confidential source or disclose confidential information relating to a criminal investigation; or
 - iv. reveal criminal investigative techniques or procedures, except routine techniques and procedures;
- (f) if disclosed could endanger the life or safety of any person;
- (g) are inter-agency or intra-agency materials which are not:
 - i. statistical or factual tabulations or data;
 - ii. instructions to staff that affect the public;
 - iii. final agency policy or determinations; or

- iv. external audits, including but not limited to audits performed by the comptroller and the federal government; or
- (h) are examination questions or answers which are requested prior to the final administration of such questions;
- (I) if disclosed, would jeopardize the Agency=s capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures; or
- (j) are photographs, microphotographs, videotape or other recorded images prepared under authority of Vehicle and Traffic Law.

Section 8. Appeals.

(a) Any person whose request to inspect and/or copy records has been denied may appeal such denial, in writing, within thirty (30) days, to the Chair of the Agency, with a copy to the Agency=s Legal Counsel.

(b) Such appeal shall be in writing and must set forth; the name and address of the applicant; the specific record(s) requested; the date of the denial; and the reasons given for such denial. Upon receipt of a written appeal, the Records Management Officer shall immediately forward a copy of said appeal to the Department of State Committee on Open Government. Within ten (10) business days of receipt of the appeal, the Records Management Officer shall fully explain, in writing, to the person requesting the record(s) the reason(s) for further denial or provide access to the record(s) sought. A copy of said appeal determination shall be forwarded to the Department of State Committee on Open Government.

Section 9. Effective Date.

The foregoing rules and regulations shall take effect immediately.

Dated: December 19, 2005,
As amended July 20, 2009
And ratified February 17, 2015

(See Attachment A for most recent Name and Address of the Agency's Administrator and the Agency's legal counsel.)

ATTACHMENT A for 2015

WWIDA Office Administrator and
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