

PORT OF OSWEGO AUTHORITY

FREEDOM OF INFORMATION LAW (FOIL) POLICIES AND PROCEDURES

SECTION 1. PURPOSE & SCOPE

The Port of Oswego Authority (the "Authority") wishes to establish policies and procedures to address public access to its records pursuant to the Freedom of Information Law (FOIL) as amended on January 1, 1978.

The policies and procedures outlined herein will provide information related to the procedures by which certain records of the Authority may be obtained pursuant to said Law as well as records otherwise available by law.

Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

SECTION 2. DESIGNATION OF RECORDS ACCESS OFFICER

The Authority designates Patti Scanlon, Assistant to the Authority's Executive Director, as its Records Access Officer and the party responsible for insuring compliance with the policies and procedures contained herein.

The designation shall not be interpreted as to prohibit officials who have in the past been authorized to keep records or information available to the public from continuing to do so.

The designee's contact information shall be:

Patti Scanlon, Records Access Officer
Port of Oswego Authority
1 East Second Street
Oswego, NY 13126
email address: pscanlon@portoswego.com
Telephone: 315 -343-4503 Ext. 115
Facsimile: 315-343-5498

The Records Access Officer shall be responsible for:

- 1) maintaining a current master list of records in the Authority's possession regardless of whether or not the records are available pursuant to subdivision 2, Section 87 of the New York State Public Officers Law, a copy of which is attached hereto as Exhibit "C."

The list shall be updated annually with the revision date noted on the first page of the document.

- 2) Assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved, or generated to assist persons of interest in reasonably describing records.
- 3) Contact parties seeking records when a request is voluminous or when locating the records involves substantial effort so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.
- 4) Upon locating the records requested the Records Access Officer shall undertake one of the following actions:
 - i) make the requested documents available for examination;
 - ii) deny access to the records in whole or in part and explain in writing the reasons why.
- 5) Upon requests for copies of records, the Records Access Officer shall:
 - i) make a copy available upon payment of established fees (if required) as outlined in Section 6 of this document;

- ii) allow the requestor to make copies.
- 6) Upon request, certify that a record is a true copy.
- 7) Upon failure to locate the records requested, certify that:
 - i) the Authority is not the custodian of such records, or
 - ii) after a diligent search, the records of which the Authority is a custodian cannot be found.

Section 3. Requests for Records

The Authority requests that all FOIL requests be made in writing or electronically.

Any requests for information should be made using the form included with these policies and procedures as **Exhibit "A"** entitled Application for Public Access to Records. The form shall be posted on the Authority's website and made available at the Authority Office, 1 East Second Street, Oswego, NY 13126. Although not mandatory, requestors will be encouraged to use the form to expedite the process.

In any event, requests should include subject, dates, document description or other information that will be helpful to the Authority in making the documents requested available for examination.

The Records Access Officer shall only be required to produce records in the form in which they are maintained by the Authority. There is NO requirement that the Officer create any record not possessed or maintained by the Authority.

Section 4. Exclusion of Records Available for Public Inspection

The Authority, in accordance with its rules, shall make available for public inspection and copying all records, except those that it may deny access to or portions thereof that:

- 1) are specifically exempt 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:
 - 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 relative to a criminal investigation; or
 - iv. 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:

- i. statistical or factual tabulations or data;
 - ii. instructions to staff that affect the public;
 - iii. final agency policy or determination; or
 - iv. 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.

Section 4. Authority's Response Time to Requests

The Authority shall respond to any request reasonably describing the record or records sought within five (5) business days of receipt of the request on the form attached hereto as **Exhibit "B"** entitled Authority's Acknowledgment of FOIL Request.

The failure to grant or deny a request within ten (10) business days after the date the acknowledgment of receipt of a request can be construed as a denial of access that may be appealed.

Section 5. Location of Records and Hours for Public Inspection

Records shall be available for public inspection and copying at the offices of the Authority, 1 East Second Street, Oswego, NY 13126, during normal business

hours, Monday thru Friday from 8 a.m. until 3 p.m., excluding holidays and weekends.

The Authority must publicize, either by 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, 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 6. Fees

There shall be no fees charged for a search for records identified on a FOIL request, for an inspection of records or any certification thereof.

There will be a charge of twenty cents per page for copies of documents no larger than 8 1/2 x 14. For copies of documents larger than 8 1/2 x 14, the Port shall ascertain the cost to reproduce same. The requestor will be notified of the cost to do so which must be paid prior to the Port undertaking duplication.

Section 7. 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 hears appeals, identifying that person or body by name, title, business address and business telephone number. The Records Access Officer shall not serve in a dual role as appeals officer.

Section 8. Appeal Process

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 the request(s) for record(s), the record(s) that were denied and the name and return address of the person requesting the appeal.

The Authority's governing body, i.e., its Board of Directors, has designated the Board Chairman to hear appeals. The Records Access Officer shall transmit a copy of all appeals to the Authority's Board Chairman for his/ her review at the monthly Board meeting subsequent to the month in which the request was received. Board meetings are held on the last Tuesday of each and every month.

The Chairman must inform the appellant as well as the Authority's Board members of his determination in writing with ten (10) business days following the Board meeting at which it was addressed.

The determination must fully explain to the person requesting the record the reasons for further denial or provide access to the records sought.

Section 9. Severability

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the applications thereof to other persons and circumstances.

MODEL PUBLIC NOTICE

YOU HAVE A RIGHT TO SEE PUBLIC RECORDS

The amended Freedom of Information Law which took effect on January 1, 1978, gives you the right to access public records,

The Port of Oswego Authority (the "Authority") has adopted regulations governing when where and how you can see public records.

The Authority's records are kept and can be seen and copied at:

Port of Oswego Authority
1 East Second Street
Oswego, NY 13126

For assistance in exercising your right to access, please contact:

Patti Scanlon
Records Access Officer
Port of Oswego Authority
1 East Second Street
Oswego, NY 13126
Telephone: (315) 343-4503, Ext. 115
email: pscanlon@portoswego.com

If you are denied access to a record you may appeal to the following person:

Terrance Hammill, Chairman
Port of Oswego Board of Directors
1 East Second Street
Oswego, NY 13126