OPEN RECORDS POLICY FOR THE COUNTY OF FRANKLIN, PENNSYLVANIA

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POLICY

I. EFFECTIVE DATE:

This policy regarding the maintenance and distribution of the documents and records of the County of Franklin, Pennsylvania shall be effective on January 1, 2009.

II. DEFINITIONS:

The words and phrases when used in this policy shall have the meanings given to them as set forth in Section 102 of Act 3 0f 2008 as amended as adopted by the Pennsylvania state legislature and signed by Governor Edward G. Rendell, February 14, 2008, unless the context clearly indicates otherwise:

"Administrative proceeding." A proceeding by an agency the outcome of which is required to be based on a record or documentation prescribed by law or in which a statute or regulation is particularized in application to individuals. The term includes an appeal.

"Agency." A Commonwealth agency, a local agency, a judicial agency or a legislative agency.

"Aggregated data." A tabulation of data which relate to broad classes, groups or categories so that it is not possible to distinguish the properties of individuals within those classes, groups or categories.

"Appeals officer." As follows:

(1) For a Commonwealth agency or a local agency, the appeals officer designated under section 503(a).

(2) For a judicial agency, the individual designated under section 503(b).

(3) For a legislative agency, the individual designated under section 503 (c).

(4) For the Attorney General, State Treasurer, Auditor General and local agencies in possession of criminal investigative records, the individual designated under section 503(d).

"Commonwealth agency." Any of the following:

(1) Any office, department, authority, board, multistate agency or commission of the executive branch; an independent agency; and a State-affiliated entity. The term includes:

(I) The Governor's Office.

(ii) The Office of Attorney General, the Department of the Auditor General and the Treasury Department.

(iii) An organization established by the Constitution of Pennsylvania, a statute or an executive order which performs or is intended to perform an essential governmental function.

(2) The term does not include a judicial or legislative agency.

"Confidential proprietary information." Commercial or financial information received by an agency:

(1) which is privileged or confidential; and

(2) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information.

"Financial record." Any of the following:

(1) Any account, voucher or contract dealing with:
(I) the receipt or disbursement of funds by an agency; or
(ii) an agency's acquisition, use or disposal of services, supplies, materials, equipment or property.

(2) The salary or other payments or expenses paid to an officer or employee of an agency, including the name and title of the officer or employee.

(3) A financial audit report. The term does not include work papers underlying an audit.

"Homeland security." Governmental actions designed to prevent, detect, respond to and recover from acts of terrorism, major disasters and other emergencies, whether natural or manmade. The term includes activities relating to the following:

(1) emergency preparedness and response, including preparedness and response activities by volunteer medical, police, emergency management, hazardous materials and fire personnel;

(2) intelligence activities;

(3) critical infrastructure protection;

(4) border security;

(5) ground, aviation and maritime transportation security;

(6) biodefense;

(7) detection of nuclear and radiological materials; and (8) research on next-generation securities

technologies.

"Independent agency." Any board, commission or other agency or officer of the Commonwealth, that is not subject to the policy supervision and control of the Governor. The term does not include a legislative or judicial agency.

"Judicial agency." A court of the Commonwealth or any other entity or office of the unified judicial system.

"Legislative agency." Any of the following:

(1) The Senate.

(2) The House of Representatives.

(3) The Capitol Preservation Committee.

(4) The Center for Rural Pennsylvania.

(5) The Joint Legislative Air and Water Pollution Control and Conservation Committee.

(6) The Joint State Government Commission.

(7) The Legislative Budget and Finance Committee.

(8) The Legislative Data Processing Committee.

(9) The Independent Regulatory Review Commission.

(10) The Legislative Reference Bureau.

(11) The Local Government Commission.

(12) The Pennsylvania Commission on Sentencing.

(13) The Legislative Reapportionment Commission.

(14) The Legislative Office of Research Liaison.

(15) The Legislative Audit Advisory Commission.

"Legislative record." Any of the following relating to a legislative agency or a standing committee, subcommittee or conference committee of a legislative agency:

(1) A financial record.

(2) A bill or resolution that has been introduced and amendments offered thereto in committee or in legislative session, including resolutions to adopt or amend the rules of a chamber.

(3) Fiscal notes.

(4) A cosponsorship memorandum.

(5) The journal of a chamber.

(6) The minutes of, record of attendance of members at a public hearing or a public committee meeting and all recorded votes taken in a public committee meeting.

(7) The transcript of a public hearing when available.

(8) Executive nomination calendars.

(9) The rules of a chamber.

(10) A record of all recorded votes taken in a legislative session.

(11) Any administrative staff manuals or written policies.

(12) An audit report prepared pursuant to the act of June 30, 1970 (P.L.442, No.151) entitled, "An act implementing the provisions of Article VIII, section 10 of the Constitution of Pennsylvania, by designating the Commonwealth officers who shall be charged with the function of auditing the financial transactions after the occurrence thereof of the Legislative and Judicial branches of the government of the Commonwealth, establishing a Legislative Audit Advisory Commission, and imposing certain powers and duties on such commission."

(13) Final or annual reports required by law to be submitted to the General Assembly.

(14) Legislative Budget and Finance Committee reports.

(15) Daily Legislative Session Calendars and marked calendars.

(16) A record communicating to an agency the official appointment of a legislative appointee.

(17) A record communicating to the appointing authority the resignation of a legislative appointee.

(18) Proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency.

(19) The results of public opinion surveys, polls, focus groups, marketing research or similar efforts designed to measure public opinion funded by a legislative agency.

"Local agency." Any of the following:

(1) Any political subdivision, intermediate unit, charter school, cyber charter school or public trade or vocational school.

(2) Any local, intergovernmental, regional or municipal agency, authority, council, board, commission or similar governmental entity.

"Office of Open Records." The Office of Open Records established in section 1310.

"Personal financial information." An individual's personal credit, charge or debit card information; bank account information; bank, credit or financial statements; account or PIN numbers and other information relating to an individual's personal finances.

"Privilege." The attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth.

"Public record." A record, including a financial record, of a Commonwealth or local agency that:

(1) is not exempt under section 708;

(2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or

(3) is not protected by a privilege

"Record." Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a dataprocessed or image- processed document.

"Requester." A person that is a legal resident of the United States and requests a record pursuant to this act. The term includes an agency.

"Response." Access to a record or an agency's written notice to a requester granting, denying or partially granting and partially denying access to a record.

"Social services." Cash assistance and other welfare benefits, medical, mental and other health care services, drug and alcohol treatment, adoption services, vocational services and training, occupational training, education services, counseling services, workers' compensation services and unemployment compensation services, foster care services, services for the elderly, services for individuals with disabilities and services for victims of crimes and domestic violence.

"State-affiliated entity." A Commonwealth authority or Commonwealth entity. The term includes the Pennsylvania Higher Education Assistance Agency and any entity established thereby, the Pennsylvania Gaming Control Board, the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission, the Pennsylvania Housing Finance Agency, the Pennsylvania Municipal Retirement Board, the State System of Higher Education, a community college, the Pennsylvania Turnpike Commission, the Pennsylvania Public Utility Commission, the Pennsylvania Infrastructure Investment Authority, the State Public School Building Authority, the Pennsylvania Interscholastic Athletic Association and the Pennsylvania Educational Facilities Authority. The term does not include a State-related institution.

"State-related institution." Includes:

(1) Temple University.

(2) The University of Pittsburgh.

(3) The Pennsylvania State University.

(4) Lincoln University.

"Terrorist act." A violent or life-threatening act that violates the criminal laws of the United States or any state and appears to be intended to:

(1) intimidate or coerce a civilian population;

(2) influence the policy of a government; or

(3) affect the conduct of a government by mass destruction, assassination or kidnapping.

"Trade secret." Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that:

(1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

(2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term includes data processing software obtained by an agency under a licensing agreement prohibiting disclosure.

III. LOCAL AGENCY:
The County of Franklin is a "local agency" as defined under Act 3 0f 2008 as amended known as the Right To Know Law and shall provide public records in accordance with the act.
The County of Franklin may not deny a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law.

IV. PRESUMPTIONS:

(a) General rule. — A record in the possession of the County shall be presumed to be a public record. The presumption shall not apply if:

(1) the record is exempt under section 708 of Act 3 0f 2008 as amended and set forth hereafter in the "Exceptions" section;

(2) the record is protected by a privilege; or

(3) the record is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.

V. NATURE OF RECORD:
Nothing in this act shall supersede or modify the public or nonpublic nature of a record or document established in Federal or State law, regulation or judicial order or decree.

VI. OPEN RECORDS OFFICER:

(a) Establishment. — The County of Franklin hereby designates the Deputy Chief Clerk of Franklin County as the Franklin County open-records officer. In the absence of the Deputy Chief Clerk, such other employee will be designated.

(b) Functions. —

(1) The open-records officer shall receive requests submitted to the agency under this act, direct requests to other appropriate persons within the agency or to appropriate persons in another agency, track the agency's progress in responding to requests and issue interim and final responses under this act.

(2) Upon receiving a request for a public record, legislative record or financial record, the open-records officer shall do all of the following:

(I) Note the date of receipt on the written request.

(ii) Compute the day on which the five-day period under section 901 of Act 3 0f 2008 as amended will expire and make a notation of that date on the written request.

(iii) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) or the appeal is deemed denied.

VII. APPEAL OFFICER:

(a) Local agencies. — Except as provided in subsection (d), the Office of Open Records established under section 1310 has designated an appeals officer under section 1101(a)(2) of Act 3 0f 2008 as amended for all:

(1) Commonwealth agencies; and

(2) local agencies.

(b) Judicial agencies. — The County of Franklin shall have no authority with respect to judicial agencies as each judicial agency shall designate an appeals officer to hear appeals under Chapter 11 of Act 3 0f 2008 as amended.

(c) Legislative agencies. — The County of Franklin shall have no authority with respect to legislative agencies as each legislative agency shall designate an appeals officer to hear appeals under Chapter 11 of Act 3 0f 2008 as amended.

(d) Law enforcement records and Statewide officials. —

(1) In the event the Franklin County Open Records Officer identifies a record in the possession of the County to be a possible criminal investigative record, an appeal of the determination of same shall be referred to the appeals officer identified in paragraph (2).

(2) The Franklin County District Attorney shall designate one or more appeals officers to hear appeals under Chapter 11 of Act 3 0f 2008 as amended relating to access to criminal investigative records in possession of a local agency of that county. The appeals officer designated by the district attorney shall determine if the record requested is a criminal investigative record.

VIII. REGULATIONS AND POLICIES.

(a) Authority. — Franklin County has promulgated these regulations and policies necessary for the agency to implement Act 3 0f 2008 as amended. The Office of Open Records may promulgate regulations relating to appeals involving the County.

(b) Posting. — The following information shall be posted at each agency and, if the agency maintains an Internet website, on the agency's Internet website:

(1) Contact information for the open-records officer.

(2) Contact information for the Office of Open Records or other applicable appeals officer.

(3) A form which may be used to file a request.

(4) Regulations, policies and procedures of the agency relating to this act.

IX. UNIFORM FORM.

(a) The Office of Open Records has developed a uniform form which shall be accepted by the County of Franklin, Pennsylvania in addition to any form used by the County to file a request under Act 3 0f 2008 as amended. The uniform form is also attached to these regulations as Appendix A along with the Franklin County Agency form which is Appendix B.

X. REQUESTS.

In accordance with Section 506 of Act 3 0f 2008 as amended,
(a) Disruptive requests. —

(1) The County of Franklin may deny a requester access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the agency.
(2) A denial under this subsection shall not restrict the ability to request a different record.

(b) Disaster or potential damage. —
(1) The County of Franklin may deny a requester access:

(I) when timely access is not possible due to fire, flood or other disaster; or

(ii) to historical, ancient or rare documents, records, archives and manuscripts when access may, in the professional judgment of the curator or custodian of records, cause physical damage or irreparable harm to the record.

(2) To the extent possible, the contents of a record under this subsection shall be made accessible to a requester even when the record is physically unavailable.

(c) Possession of records. —

(1) A public record that is not in the possession of the County of Franklin but is in the possession of a party with whom the County has contracted to perform a governmental function on behalf of the County, and which directly relates to the governmental function and is not exempt under this act, shall be considered a public record of the County for purposes of this policy.

(2) Nothing in this act shall be construed to require access to any other record of the party in possession of the public record.

(3) A request for a public record in possession of a party other than the County shall be submitted to the open records officer of the County. Upon a determination that the record is subject to access under Act 3 0f 2008 as amended, the open records officer shall assess the duplication fee established under section 1307(b) of Act 3 0f 2008 as amended and upon collection shall remit the fee to the party in possession of the record if the party duplicated the record.

XI. RETENTION OF RECORDS.

Nothing in Act 3 of 2008 as amended shall be construed to modify, rescind or supersede any record retention policy or disposition schedule of an agency established pursuant to law, regulation, policy or other directive.

XII. PROCEDURE

A. Access.

(a) General rule. — Unless otherwise provided by law, a public record, legislative record or financial record shall be accessible for inspection and duplication in accordance with Act 3 of 2008 as amended. A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. Public records, legislative records or financial records shall be available for access during the regular business hours of Franklin County. The regular business hours of the offices of Franklin County for each calendar year shall be established by the Franklin County Commissioners at the annual reorganization meeting of each year.

(b) Construction. — Nothing in this act shall be construed to require access to any computer either of an agency or individual employee of an agency.

B. Requests.

Agencies may fulfill verbal, written or anonymous verbal or written requests for access to records under Act 3 of 2008 as amended. If the requester wishes to pursue the relief and remedies provided for under Act 3 of 2008 as amended, the request for access to records must be a written request.

C. Written requests.

(1) A written request for access to records may be submitted in person, by mail, by e-mail, by facsimile or, to the extent provided by agency rules, any other electronic means. A written request must be addressed to the Franklin County Open Records Officer as identified in Section VI of these regulations.

(2) Employees of Franklin County are directed to forward requests for records to the open-records officer immediately upon receipt or risk disciplinary action.

(3) A written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested and shall include the name and address to which the agency should address its response.

(4) A written request need not include any explanation of the requester's reason for requesting or intended use of the records unless otherwise required by law.

D. Electronic access.

(a) General rule. — In addition to the requirements of section XII.A., Franklin County may make its records available through any publicly accessible electronic means.

(b) Response. —

(1) In addition to the requirements of section XII.A., Franklin County's open records officer may respond to a request by notifying the requester that the record is available through publicly accessible electronic means or that the County will provide access to inspect the record electronically.

(2) If the requester is unwilling or unable to access the record electronically, the requester may, within 30 days following receipt of the County Open Records Officer's notification, submit a written request to the County Open Records Officer to have the record converted to paper. The County Open Records Officer shall provide access to the record in printed form within five days of the receipt of the written request for conversion to paper.

E. Creation of record.

When responding to a request for access, an agency shall not be required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.

F. Redaction.

If the County Open Records Officer determines that a public record, legislative record or financial record contains information which is subject to access as well as information which is not subject to access, the County's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record, legislative record or financial record and cannot be separated, the County's Open Records Officer shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. The County may not deny access to the record if the information which is not subject to access is able to be redacted. Information which the County redacts in accordance with this subsection shall be deemed a denial under "XIII. C".

G. Production of certain records.

(a) General rule. — If, in response to a request, the County produces a record that is not a public record, legislative record or financial record, the County shall notify any third party that provided the record to the County, the person that is the subject of the record and the requester.

(b) Requests for trade secrets. — The County shall notify a third party of a request for a record if the third party provided the record and included a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary information.

Notification shall be provided within five (5) business days of receipt of the request for the record. The third party shall have five (5) business days from receipt of notification from the County to provide input on the release of the record. The County shall deny the request for the record or release the record within ten (10) business days of the provision of notice to the third party and shall notify the third party of the decision.

(c) Transcripts. —

(1) Prior to an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding shall be provided to a requester by the County stenographer or a court reporter, in accordance with County procedure or an applicable contract.

(2) Following an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding shall be provided to a requester in accordance with the duplication rates established in section 1307(b) of Act 3 of 2008 as amended.

(3) The County does hereby agree that all administrative proceedings shall be transcribed by either an approved stenographer or court reporter selected by the County for each administrative proceeding.

H. Exceptions for public records. The County of Franklin hereby adopts Section 708 of Act 3 of 2008 in its entirety and will not release records identified as exempt under Section 708.

(a) Burden of proof. —

(1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.

(b) **Exceptions.** — Except as provided in subsections (c) and (d), the following are exempt from access by a requester under this act:

(1) A record the disclosure of which:

(I) would result in the loss of Federal or State funds by an agency or the Commonwealth; or

(ii) would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.

(2) A record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity or a record that is designated classified by an appropriate Federal or State military authority.

(3) A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system, which may include:

(I) documents or data relating to computer hardware, source files, software and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act;

(ii) lists of infrastructure, resources and significant special events, including those defined by the Federal Government in the National Infrastructure Protections, which are deemed critical due to their nature and which result from risk analysis; threat assessments; consequences assessments; antiterrorism protective measures and plans; counterterrorism measures and plans; and security and response needs assessments; and

(iii) building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems, structural elements, technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage and gas systems.

(4) A record regarding computer hardware, software and networks, including administrative or technical records, which, if disclosed, would be reasonably likely to jeopardize computer security.

(5) A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.

(6) (I) The following personal identification information:

(A) A record containing all or part of a person's Social Security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal email addresses; employee number or other confidential personal identification number.
(B) A spouse's name; marital status, beneficiary or dependent information.

(C) The home address of a law enforcement officer or judge.

(ii) Nothing in this paragraph shall preclude the release of the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement and length of service of a public official or an agency employee.

(iii) An agency may redact the name or other identifying information relating to an individual performing an undercover or covert law enforcement activity from a record.

(7) The following records relating to an agency employee:
(I) A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment of an individual to fill a vacancy in an elected office or an appointed office requiring Senate confirmation.

(ii) A performance rating or review.
(iii) The result of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency. The result of a civil service or similar test administered by a local agency shall not be disclosed if restricted by a collective bargaining agreement. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.

(iv) The employment application of an individual who is not hired by the agency.

(v) Workplace support services program information.

(vi) Written criticisms of an employee.

(vii) Grievance material, including documents related to discrimination or sexual harassment.

(viii) Information regarding discipline, demotion or discharge contained in a personnel file. This subparagraph shall not apply to the final action of an agency that results in demotion or discharge.

(ix) An academic transcript.

(8) (I) A record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings. This subparagraph shall not apply to a final or executed contract or agreement between the parties in a collective bargaining procedure.

(ii) In the case of the arbitration of a dispute or grievance under a collective bargaining agreement, an exhibit entered into evidence at an arbitration proceeding, a transcript of the arbitration or the opinion. This subparagraph shall not apply to the final award or order of the arbitrator in a dispute or grievance procedure.

(9) The draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment thereto prepared by or for an agency.

(10) (I) A record that reflects:

(A) The internal, predecisional deliberations of an agency, its members, employees or officials or predecisional deliberations between agency members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations.

(B) The strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.

(ii) Subparagraph (i)(A) shall apply to agencies subject to 65 Pa.C.S. Ch. 7 (relating to open meetings) in a manner consistent with 65 Pa.C.S. Ch. 7. A record which is not otherwise exempt from access under this act and which is presented to a quorum for deliberation in accordance with 65 Pa.C.S. Ch. 7 shall be a public record.

(iii) This paragraph shall not apply to a written or Internet application or other document that has been submitted to request Commonwealth funds.

(iv) This paragraph shall not apply to the results of public opinion surveys, polls, focus groups, marketing research or similar effort designed to measure public opinion.

(11) A record that constitutes or reveals a trade secret or confidential proprietary information.

(12) Notes and working papers prepared by or for a public official or agency employee used solely for that official's or employee's own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.

(13) Records that would disclose the identity of an individual who lawfully makes a donation to an agency unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the agency, including lists of potential donors compiled by an agency to pursue donations, donor profile information or personal identifying information relating to a donor.

(14) Unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material and scholarly correspondence of a community college or an institution of the State System of Higher Education or a faculty member, staff employee, guest speaker or student thereof.

(15) (I) Academic transcripts

(ii) Examinations, examination questions, scoring keys or answers to examinations. This subparagraph shall include licensing and other examinations relating to the qualifications of an individual and to examinations given in primary and secondary schools and institutions of higher education.

(16) A record of an agency relating to or resulting in a criminal investigation, including:

(I) Complaints of potential criminal conduct other than a private criminal complaint.

(ii) Investigative materials, notes, correspondence, videos and reports.

(iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.

(iv) A record that includes information made confidential by law or court order.

(v) Victim information, including any information that would jeopardize the safety of the victim.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.

(B) Deprive a person of the right to a fair trial or an impartial adjudication.

(C) Impair the ability to locate a defendant or codefendant.

(D) Hinder an agency's ability to secure an arrest, prosecution or conviction.

(E) Endanger the life or physical safety of an individual.

This paragraph shall not apply to information contained in a police blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa.C.S. § 3754(b) (relating to accident prevention investigations).

(17) A record of an agency relating to a noncriminal investigation, including:
(I) Complaints submitted to an agency.

(ii) Investigative materials, notes, correspondence and reports.

(iii) A record that includes the identity of a confidential source, including individuals subject to the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law.
(iv) A record that includes information made confidential by law.

(v) Work papers underlying an audit.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined to be confidential by a court.

(B) Deprive a person of the right to an impartial adjudication.

(C) Constitute an unwarranted invasion of privacy.

(D) Hinder an agency's ability to secure an administrative or civil sanction.

(E) Endanger the life or physical safety of an individual.

(18) (I) Records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings.

(ii) This paragraph shall not apply to a 911 recording, or a transcript of a 911 recording, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

(19) DNA and RNA records.

(20) An autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of a postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner. This exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.

(21) (I) Draft minutes of any meeting of an agency until the next regularly scheduled meeting of the agency.

(ii) Minutes of an executive session and any record of discussions held in executive session.

(22) (I) The contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by an agency relative to the following:

(A) The leasing, acquiring or disposing of real property or an interest in real property.

(B) The purchase of public supplies or equipment included in the real estate transaction.

(C) Construction projects.

(ii) This paragraph shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or the purchase of public supply or construction project.

(23) Library and archive circulation and order records of an identifiable individual or groups of individuals.

(24) Library archived and museum materials, or valuable or rare book collections or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution.

(25) A record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.

(26) A proposal pertaining to agency procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offeror requested in an invitation for bid or request for proposals to demonstrate the bidder's or offeror's economic capability; or the identity of members, notes and other records of agency proposal evaluation committees established under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).

(27) A record or information relating to a communication between an agency and its insurance carrier, administrative service organization or risk management office. This paragraph shall not apply to a contract with an insurance carrier, administrative service organization or risk management office or to financial records relating to the provision of insurance.

(28) A record or information:

(I) identifying an individual who applies for or receives social services; or

(ii) relating to the following:

(A) the type of social services received by an individual;

(B) an individual's application to receive social services, including a record or information related to an agency decision to grant, deny, reduce or restrict benefits, including a quasi-judicial decision of the agency and the identity of a caregiver or others who provide services to the individual; or

(C) eligibility to receive social services, including the individual's income, assets, physical or mental health, age, disability, family circumstances or record of abuse.

(29) Correspondence between a person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests assistance or constituent services.

This paragraph shall not apply to correspondence between a member of the General Assembly and a principal or lobbyist under 65 Pa.C.S. Ch. 13A (relating to lobbyist disclosure).

(30) A record identifying the name, home address or date of birth of a child 17 years of age or younger.

(c) Financial records. — The exceptions set forth in subsection (b) shall not apply to financial records, except that an agency may redact that portion of a financial record protected under subsection (b)(1), (2), (3), (4), (5), (6), (16) OR (17). An agency shall not disclose the identity of an individual performing an undercover or covert law enforcement activity.

(d) Aggregated data. — The exceptions set forth in subsection (b) shall not apply to aggregated data maintained or received by an agency, except for data protected under subsection (b)(1), (2), (3), (4) or (5).

(e) Construction. — In determining whether a record is exempt from access under this section, the County shall consider and apply each exemption separately.

XIII. FRANKLIN COUNTY RESPONSE

A. General rule.

Upon receipt of a written request for access to a record, the Franklin County Open Records Officer shall make a good faith effort to determine if the record requested is a public record, legislative record or financial record and whether the County has possession, custody or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request. All applicable fees shall be paid in order to receive access to the record requested. The time for response shall not exceed five (5) business days from the date the written request is received by the open records officer for the County. If the open records officer fails to send the response within five (5) business days of receipt of the written request for access, the written request for access shall be deemed denied.

(a) For purposes of determining the five (5) business-day period:

(1) A business day shall be from 8:30 a.m. until 4:30 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday, except those days when the offices of the County are closed for all or part of a day due to a holiday; due to severe weather (such as a blizzard or ice storm); due to natural or other disaster; or due to the request or direction of local, state, or federal law enforcement officials.

(2) Any Open Records Request received by the Open Records Office after the close of its regular business hours shall be deemed received by that office on the following business day. Thus, for example, a facsimile transmission received at 6:00 p.m. on a Friday is deemed to be received on the following Monday (unless that Monday is a holiday).

(3) For purposes of determining the end of the five (5) business day period, the day that an Open Records Request is received (or deemed received) is not counted. The first day of the five business day period is the County's next business day. For example, if an Open Records Request is received on a Tuesday, the first three days of the period are Wednesday, Thursday and Friday. The fourth and fifth business days would be Monday and Tuesday of the following week. The Response is due by the close of business on that Tuesday.

B. Extension of time.

(a) Determination. — Upon receipt of a written request for access, the open-records officer for Franklin County shall determine if one of the following applies:

(1) the request for access requires redaction of a record in accordance with section 706 of Act 3 of 2008;

(2) the request for access requires the retrieval of a record stored in a remote location;

(3) a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;

(4) a legal review is necessary to determine whether the record is a record subject to access under tAct 3 of 2008 as amended or other statutory, judicial or regulatory limitation;

(5) the requester has not complied with the agency's policies regarding access to records;

(6) the requester refuses to pay applicable fees authorized by this act; or

(7) the extent or nature of the request precludes a response within the required time period.

(b) Notice. —

(1) Upon a determination that one of the factors listed in subsection (a) applies, the open-records officer shall send written notice to the requester within five (5) business days of receipt of the request for access under subsection (a).

(2) The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of 30 days, following the five (5) business days allowed for in section 901 of Act 3 of 2008 as amended, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice.

(3) If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the agency has not provided a response by that date.

C. Denial.

If the Franklin County open records officer's response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing and shall include:

(1) A description of the record requested.

(2) The specific reasons for the denial, including a citation of supporting legal authority.

(3) The typed or printed name, title, business address, business telephone number and signature of the open-records officer on whose authority the denial is issued.

(4) Date of the response.

(5) The procedure to appeal the denial of access under this act.

D. Certified copies.

If an agency's response grants a request for access, the agency shall, upon request, provide the requester with a certified copy of the record if the requester pays the applicable fees under section 1307 of Act 3 of 2008 as amended.

E. Record discard.

If the Franklin County open records officer response to a requester states that copies of the requested records are available for delivery at the offices of the County and the requester fails to retrieve the records within 60 days of the response, the County open records officer may dispose of any copies which have not been retrieved and retain any fees paid to date.

XIV. APPEAL OF DETERMINATION BY FRANKLIN COUNTY

The provisions of Chapter 11 of Act 3 of 2008 is adopted by Franklin County to in its entirety and will apply to all appeals of determinations by the Franklin County open records officer.

A. Filing of appeal. All appeals must be made to the Office of Open Records, Commonwealth of Pennsylvania, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225; Phone: 717-346-9903; Fax: 717-425-5343; Email: openrecords@state.pa.us.

XV. FEES

As permitted by Act 3 of 2008 as amended, the Franklin County Commissioners do adopt a fee schedule for all records, documents, data sets requested which is attached hereto as Appendix C.

Adopted this 23rd day of December, 2008.

FRANKLIN COUNTY COMMISSIONERS

Robert L. Thomas, Chairman

David S. Keller

Robert G. Ziobrowski

pennsylvania

OFFICE OF OPEN RECORDS

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTOR :_____

STREET ADDRESS :_____

CITY/STATE/COUNTY (Required): _____

TELEPHONE (Optional):_____

RECORDS REQUESTED:
**Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

COUNTY OF FRANKLIN
Franklin County Commissioners' Office
Attn: Jean Byers, Open Records Officer
14 North Main Street
Chambersburg, PA 17201
Office #: (717) 261-3810
Fax #: (717) 267-3438
Email: jcbyers@co.franklin.pa.us

OPEN RECORDS REQUEST FORM

Date Requested: _____

Name of Requester

_____
(Please print) Last First MI

Signature: _____

Mailing Address: _____

_____ _____ _____
City State Zipcode

Telephone #: (_____) _____ **Fax #:** (_____) _____

Email Address: _____

Records Requested :
(* Please provide as much specific detail as possible so that we are able to determine which records are being requested. Use additional sheets if necessary.)

_____

_____

_____

_____

_____

Please check one of the following boxes:

- ☐ I am only requesting access to the documents identified above.
- ☐ I am only requesting a copy of the documents identified above.

Date Received by the Agency: _____
Request Submitted By: **E-Mail** **U.S. Mail** **Fax** **In-Person**
Agency Five (5) Day Response Due: _____
Date Record Request was Fulfilled: _____

** *Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

FRANKLIN COUNTY FEE SCHEDULE

Record Type	Fee
Copies: (*A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page*)	.25 per page.
Certification of a Record:	$1 per record, not per page. Please note that certification fees do not include notarization fees.
Specialized documents : For example, but not limited to, blue prints, color copies, non-standard sized documents	Actual Cost
Facsimile/Microfiche/Other Media:	Actual Cost
Redaction Fee:	No Redaction Fee May be Imposed
Conversion to Paper:	If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307(e)).
Postage Fees:	Fees for Postage May Not Exceed the Actual Cost of Mailing

Please Also Be Advised:

- **Statutory Fees:** If a separate statute authorizes an agency to charge a set amount for a certain type of record, the agency may charge no more than that statutory amount. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and $1.50 per certified page under 42 P.S. § 21051. Police departments have the authority to charge up to $15 per report for providing a copy of a vehicle accident report. 75 Pa.C.S. §3751 (b)(2). Philadelphia police may charge up to $25 per copy. *Id* . at (b)(3). State police are authorized to charge "$5 for each copy of the Pennsylvania State Police full report of investigation." 75 Pa.C.S. §1956(b).
- **Inspection of Redacted Records:** If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the agency shall redact the non-public information. An agency may not charge the requester for the redaction. However, the Agency may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.
- **Enhanced Electronic Access** : If an agency offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the agency may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by this Act. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. **The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency.** Please submit any request to the Office of Open Records, 400 North Street, Harrisburg, PA 17120.
- **Fee Limitations:** Except as otherwise provided by statute, the law states that **no other fees may be imposed** unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for an agency's review of a record to determine whether the record is a public record, legislative record or financial record subject to access in accordance with this Act. No fee may be charged for searching for or retrieval of documents. An agency may not charge staff time or salary for complying with a RTK request.
- **Prepayment:** Prior to granting a request for access in accordance with this Act, an agency may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed $100.
    - Once the request is fulfilled and prepared for release, the Office of Open Records recommends that the agency obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which the agency provides the records and the requester fails to submit payment.

Fee Structure

Record Type	Fee
Copies: (*A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page*)	.25 per page. *unless another statutory fee may be imposed*
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Postage Fees:	Fees for Postage May Not Exceed the Actual Cost of Mailing

Geospatial Dataset Sales

County Wide

GIS Layer	Price
Parcel Polygons With CAMA Property Info	$4,200.00
Parcel Polygons No CAMA Property Info	$3,200.00
Building Footprints	$500.00
Property Addresses No Owner Info	$300.00
Road Centerlines with Address Ranges	$500.00
Road Right of Way (ROW)	$300.00
Road Centerline / ROW Package	$600.00
Railroad Centerlines	$25.00
Railroad Right of Way (ROW)	$25.00
Railroad Centerline / ROW Package	$35.00
Local Election Districts	$20.00
Polling Locations	$20.00
Cemeteries	$75.00
Farm Preservation Properties	$30.00
Parks & Rec Package	$75.00
Religious Facilities	$75.00

Municipality Wide

GIS Layer	Price
Parcel Polygons With CAMA Property Info	$210.00
Parcel Polygons No CAMA Property Info	$160.00
Building Footprints	$25.00
Property Addresses No Owner Info	$15.00
Road Centerlines with Address Ranges	$25.00
Road Right of Way (ROW)	$15.00
Road Centerline / ROW Package	$30.00

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