

PART IX
UNIFORM PROCEDURES: RECORDS, RULE MAKING, DECLARATORY ORDERS, RULE WAIVERS

CHAPTER 195
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 9/6/00, see 261—Ch 100]

[Prior to 7/4/07, see 261—Ch 169]

261—195.1(17A,22) Statement of policy, purpose and scope of chapter.

195.1(1) The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate department determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

195.1(2) This chapter does not:

- a. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
- b. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
- c. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the rules of another agency.
- d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs.
- e. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.
- f. Require the agency to create, compare or procure a record solely for the purpose of making it available.

261—195.2(17A,22) Definitions. As used in this chapter:

"Agency" means the Iowa department of economic development.

"Confidential record" in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" in these rules means the director of the Iowa department of economic development or the director's designee.

"Open record" in these rules means a record other than a confidential record.

"Personally identifiable information" in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

"Record" in these rules means the whole or a part of a "public record," as defined in Iowa Code section 22.1, that is owned by or in the physical possession of this agency.

"Record system" in these rules means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

261—195.3(17A,22) Requests for access to records.

195.3(1) *Location of record.* A request for access to a record should be directed to the Director's Office, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309.

If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

195.3(2) Office hours. Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

195.3(3) Request for access to open records.

a. Requests for access to open records may be made in writing, in person, electronically, or by telephone.

b. Mail or telephone requests shall include the name, address, telephone number, and the E-mail address (if available) of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

c. For all requested records, the person making the request shall set forth all available information that would assist in locating the records.

d. The request shall set out the maximum search fee the requester is prepared to pay. If the maximum search fee is reached before all the requested records have been located and copied, the requester shall be notified and asked for further directions before the search proceeds.

195.3(4) Response to requests.

a. Timing. Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. Advance requests to have records available on a certain date may be made by telephone or correspondence. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Records will be produced for inspection at the earliest date possible following the request. Records should be inspected within ten business days after notice is given that the records have been located and are available for inspection. After ten business days, the records will be returned to storage and additional costs may be imposed for having to produce them again.

b. Reasonable delay. Access to an open record may be delayed for one of the purposes authorized by:

(1) Iowa Code section 22.8(4), which includes good faith delay to seek an injunction or determine if the agency is entitled to seek an injunction; for the agency to determine if the public records are confidential; to determine if the confidential record should be made available (a reasonable delay for this purpose shall not exceed 20 calendar days and ordinarily should not exceed 10 business days); or

(2) Iowa Code section 22.10(4) (civil enforcement).

c. Notice to requester. The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

d. Denial of access to records. The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 195.4(17A,22) and other applicable provisions of law.

e. Federal requirements. The agency administers several federal programs and is authorized by Iowa Code section 22.9 to enforce confidentiality standards from federal law and regulations as are required for receipt of federal funds. Access to records covered by federal confidentiality requirements will not be permitted to the extent that examination or copying of such records would cause the denial of federal funds, services or essential information from the U.S. government that would otherwise be available to the agency.

195.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization. Individuals will not be given access to the area where the records are kept and will not be permitted to search the files.

195.3(6) Copying. A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

195.3(7) Access to records for examination and copying.

a. Location. As specified in Iowa Code section 22.3, the agency will provide a suitable place for examination of public records. If it is impracticable to do the work at the agency's office at 200 East Grand Avenue, Des Moines, Iowa, the person desiring to examine or copy shall pay all necessary expenses of providing a place for the work. All expenses of the work shall be paid by the person desiring to examine or copy the records.

b. Paper files. Hard copies of public records will be made available for examination and copying.

c. Electronic files. The agency will take reasonable steps to provide on-site access to electronically stored public records. To the extent the agency's technology permits, electronic records, including E-mail, will be made available through a secure, on-site computer terminal. If a requester prefers, copies of electronic records located during a records search will be provided and copying fees will apply.

d. Data processing software. Reserved.

e. Tapes. Public records maintained in the form of cassette, videotape or similar form are available for public examination. Upon request, copies of tapes will be made available, and the individual requesting the tape will bear all actual costs of copying.

f. Mixed records. If a record contains both public and confidential information, the agency will remove the confidential material before making it available for examination or copying. For paper files, a copy of the original will be made and the confidential material will be marked out. Copying fees will apply. For electronic files, if the agency is technologically able to block access to fields containing confidential materials, records will be made available as described in paragraph 195.3(7) "c" above.

195.3(8) Fees.

a. When charged. The agency may charge fees in connection with the examination, search, retrieval, restoration or copying of records. To the extent permitted by applicable provisions of law, the payment of fees may be waived in the case of small requests of ten or fewer copies when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying, faxing and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester. Actual costs to fax a document may also be charged to the requester.

c. Search and supervisory fee. An hourly fee may be charged for actual agency expenses in searching for, and supervising the examination and copying of, requested records when the time required is in excess of one hour. The fee shall be based upon the pay scale of the employee involved and other actual costs incurred. The agency shall post in agency offices the hourly fees to be charged in routine cases for search and supervision of records. The agency shall give advance notice to the requester if it will be necessary to use an employee with a higher hourly wage in order to find or supervise the examination and copying of particular records in question, and shall indicate the amount of that higher hourly wage to the requester.

d. Computer-stored information. All costs (including staff time) for retrieval, restoration and copying of information stored in electronic storage systems will be charged to the requester.

e. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

261—195.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 195.3(17A,22).

195.4(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

195.4(2) Requests. The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

195.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

195.4(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a. The name and title or position of the custodian responsible for the denial; and
- b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to the requester.

195.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

261—195.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order to refuse to disclose that record to members of the public.

195.5(1) Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

195.5(2) Request. A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such

confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

195.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code section 22.7(3) (trade secrets), 22.7(6) (advantage to competitors), or 22.7(18) (communications not required by law, rule, procedure or contract), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

195.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

195.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

195.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

261—195.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by the requester, and shall include the current address and telephone number of the requester or the requester's representative.

261—195.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject

of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

261—195.8(17A,22) Notice to suppliers of information. When the agency requests a person to supply information about that person, the agency shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided the information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

261—195.9(17A,22) Disclosures without the consent of the subject.

195.9(1) Open records are routinely disclosed without the consent of the subject.

195.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 195.10(17A,22) or in the notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. In the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

261—195.10(17A,22) Routine use.

195.10(1) "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

195.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

261—195.11(17A,22) Consensual disclosure of confidential records.

195.11(1) *Consent to disclosure by a subject individual.* The subject may consent in writing to agency disclosure of confidential records as provided in rule 195.7(17A,22).

195.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

261—195.12(17A,22) Release to subject.

195.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 195.7(17A,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18).

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)

d. As otherwise authorized by law.

195.12(2) When a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

261—195.13(17A,22) Availability of records.

195.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

195.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 73.2)

b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)

c. Records which are exempt from disclosure under Iowa Code section 22.7, including, but not limited to:

(1) Industrial prospect files which are considered confidential under Iowa Code section 22.7(8).

(2) Trade secrets which are treated as confidential under Iowa Code section 22.7(3).

(3) Reports which, if released, would give advantage to competitors and serve no public purpose.

These records are considered confidential under Iowa Code section 22.7(6).

(4) Communications not required by rule, law, procedure or contract to the extent that the agency reasonably believes that such communications would not be made if the supplier knew the information would be made available for general public examination. These records are confidential under Iowa Code section 22.7(18).

d. Client database. The agency maintains a database of business prospects. This list identifies companies that may be seeking to expand or locate their businesses in Iowa. This list is considered confidential under Iowa Code sections 22.7(3), 22.7(6), 22.7(8) and 22.7(18).

e. Minutes of closed meetings of a governmental body as permitted under Iowa Code section 21.5(4).

f. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."

g. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics on allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of those statements would:

- (1) Enable law violators to avoid detection;
- (2) Facilitate disregard of requirements imposed by law; or
- (3) Give a clearly improper advantage to persons who are in an adverse position to the agency.

(Iowa Code sections 17A.2 and 17A.3)

h. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 1.503(3), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

i. Data processing software, as defined in Iowa Code section 22.3A, which is developed by a governmental body.

j. Log-on identification passwords, Internet protocol addresses, private keys, or other records containing information which might lead to disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.

k. Records which if disclosed might jeopardize the security of an electronic transaction pursuant to Iowa Code chapter 554D.

l. Any other records considered confidential by law.

195.13(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other provision of law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 195.5(17A,22). If the agency initially determines that it will release such records, the agency may, when appropriate, notify interested parties and withhold the records from inspection as provided in subrule 195.4(3).

261—195.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 195.2(17A,22). This rule describes the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Unless otherwise stated, the authority for this agency to maintain the record is provided by Iowa Code chapter 15. The record systems maintained by the agency are:

195.14(1) Personnel files. Personnel records of department employees are maintained at the agency. Records of staff include such personally identifiable information as name, address, social security number and employee payroll number. Other data contained in staff personnel records are salary information, seniority date, employee deduction forms, insurance and savings bond contributions, deferred compensation information, current leave information, performance evaluations and performance review dates. Some information may be confidential under Iowa Code section 22.7(11). Data processing systems do not match, collate or compare the personally identifiable information of the staff personnel records with personally identifiable information contained in the records of other agencies.

195.14(2) Travel records. The agency maintains travel records of agency staff. Personally identifiable information collected includes the name, address, and social security number of the individual. This information is collected pursuant to Iowa Code section 421.39. Data processing systems do not match, collate or compare the personally identifiable information collected with similar information collected by other state agencies.

195.14(3) Claim vouchers. Requests for reimbursement from agency staff, contractors, and grantees are maintained by the agency. These records contain the name, address and social security number of the

individual requesting reimbursement for expenses. This information is collected pursuant to Iowa Code section 421.40. The information is not maintained in a data processing system which matches, collates or compares the information with other systems containing personally identifiable information.

195.14(4) *Contracts and grant records.* Contractual agreements and grant agreements are maintained by the agency. These records contain personally identifiable information when the agreement is with a specific individual. In those instances, the records include the name, address and social security number of the contractor/grant recipient. Other information in these records may include the proposal or work statement of the contractor or grant recipient, budget figures, modifications, correspondence and business information. Personally identifiable information is not contained in a data processing system which collates, matches or compares this information with other systems containing personally identifiable information.

195.14(5) *Payroll records.* Payroll records include time sheets of individuals, listings of prior years' earnings, current listings of deductions, and insurance billings. Personally identifiable information is included in these records. An employee's name, address and social security number are maintained in the payroll record. Personally identifiable information is not contained in a data processing system which collates, matches or compares this information with other systems containing personally identifiable information.

195.14(6) *Grant and loan application records.* The agency administers a variety of state and federal grant and loan programs. Records of persons or organizations applying for grants, awards or funds are available through the agency. These records may contain information about individuals collected pursuant to specific federal or state statutes or regulations. Personally identifiable information such as name, address, social security number and telephone number may be included in these records when the applicant is an individual. Many program applicants are political subdivisions or corporations, not individuals.

195.14(7) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copies.

261—195.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 195.2(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 195.13(17A,22). The records listed may contain information about individuals. Unless otherwise stated, the authority for the agency to maintain the record is provided by Iowa Code chapter 15.

195.15(1) *Rule making.* Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection. This information is not stored in an automated data processing system.

195.15(2) *Board records.* Agendas, minutes, and materials presented to the Iowa department of economic development are available from the agency except for confidential records. Those records concerning closed sessions are exempt from disclosure under Iowa Code section 21.5(4). Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier and is not stored on an automated data processing system.

195.15(3) *Statistical reports.* Periodic reports of various agency programs are available from the Iowa department of economic development. Statistical reports do not contain personally identifiable information.

195.15(4) *Appeal decisions and advisory opinions.* All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 195.13(17A,22).

195.15(5) *Publications.* Publications include news releases, annual reports, project reports, agency newsletters, etc., which describe various agency programs and activities. Agency news releases, project reports, and newsletters may contain information about individuals including agency staff or members of agency councils or committees.

195.15(6) *Address lists.* The names and mailing addresses of members of boards and councils, work groups, program grantees and members of the public indicating interest in particular programs and activities of the agency are maintained to generate mailing labels for mass distribution of agency mailings.

195.15(7) *Appeal decisions and advisory opinions.* All final orders, decisions and opinions are open to the public except for information that may be confidential according to rule 195.13(17A,22).

195.15(8) *Published materials.* The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

These rules are intended to implement Iowa Code chapters 17A and 22.

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