

495—17.13(17A,22) Availability of records.

17.13(1) *Open records.* Records under the jurisdiction of the agency are open for public inspection and copying unless otherwise provided by these rules.

17.13(2) *Confidential records.* The following records under the jurisdiction of the agency 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. See Iowa Code section 72.3.

b. Procurement proposals prior to completion of the evaluation process and the issuance of a notice of intent to award a contract, provided that, if requests for proposals are canceled prior to the issuance of a notice of intent to award, all procurement proposals shall be returned in confidence to the bidders and no file copies shall be retained.

c. Tax records made available to the agency.

d. Records which are exempt from disclosure under Iowa Code sections 22.7 and 97B.17, including, but not limited to:

(1) 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).

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

(3) Log-on identification passwords, Internet protocol addresses, usernames, 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.

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

e. Minutes of closed meetings of a government body 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)“e.”

g. Those portions of agency manuals, examination materials, instructions or other statements issued which set forth criteria or guidelines to be used in auditing, in making inspections, in settling commercial disputes or negotiating commercial contract 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 these 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.

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) and 622.10, Iowa R.C.P. 1.503, Fed. R.Civ.P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code section 622.10, the rules of evidence, the Code of Professional Responsibility, and case law.

i. Any other records made confidential by law.

17.13(3) *Authority to release confidential records.* The agency, under certain circumstances, may disclose some information or confidential records which otherwise are exempt from disclosure under Iowa Code sections 22.7 and 97B.17, or other law. Any person may request permission to inspect particular records withheld from inspection as confidential records. If it is initially determined that records will be released, reasonable efforts will be made, where appropriate, to notify interested persons, and the records may be withheld from inspection for up to ten days to allow interested persons to seek injunctive relief.

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