

751—2.13 (17A,22) Availability of records.

2.13(1) *General.* Commission records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(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;
- b. Bids that are opened and only the vendor's name is announced. The proposals will remain confidential until the proposals have been evaluated and the notice of intent to award a contract is made. See Iowa Code section 72.3;
- c. Tax records made available to the commission;
- d. Records which are exempt from disclosure under Iowa Code section 22.7;
- e. Minutes of closed meetings of a government body;
- 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 commission staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by 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 or 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 commission.
- 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. 122(c), 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. Trade secrets which are recognized and protected as such by law including but not limited to network plans from authorized users.
- j. Reports to the commission and the agency which, if released, would give advantage to competitors and serve no public purpose including network redesign and engineering or other research and development working papers for improvement or enhancement of the network.
- k. Any data processing software developed by the agency.
- l. Records concerning security procedures or emergency preparedness developed and maintained by the commission or other federal or state agency for the protection of governmental employees, visitors to the agency, persons in the care, custody, or under the control of the agency, or property under the jurisdiction of the agency, if disclosure could reasonably be expected to jeopardize such employees, visitors, or property. Pursuant to Iowa Code section 22.7(50), specific records or classes of records to which this protection also applies may include specific information related to the physical network, contract- and vendor-related records and information associated with security and emergency preparedness, and similar or related records and information.
- m. Any other records made confidential by law.

2.13(3) *Authority to release confidential records.* The commission may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other 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 751—2.4(17A,22). If the commission initially determines that it will release such records, the commission may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 2.4(3).

[ARC 2497C, IAB 4/13/16, effective 3/25/16]