

**871—3.12(22,84A) Availability of records.**

**3.12(1) *Open records.*** Agency records are open for public inspection and copying unless otherwise provided by law or rule.

**3.12(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.* Labor market records made available to the agency under an agreement with the United States Department of Labor, Bureau of Labor Statistics, and withheld from public inspection pursuant to 29 Code of Federal Regulations 70 dated July 1, 1987.

*b.* County economic development survey records made available to the agency under an agreement with the department of workforce development, and withheld from public inspection pursuant to Iowa Code section 96.11(7).

*c.* Sealed bids received prior to the time set for public opening of bids pursuant to Iowa Code section 72.3.

*d.* Tax records made available to the agency pursuant to Iowa Code sections 422.20 and 422.72.

*e.* Records that are exempt from disclosure under Iowa Code section 22.7.

*f.* Minutes of closed meetings of a government body pursuant to Iowa Code section 21.5(4).

*g.* 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.*”

*h.* Those portions of the agency’s staff manuals, instructions or other statements issued that set forth criteria or guidelines to be used by the 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 or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would, pursuant to Iowa Code sections 17A.2 and 17A.3:

(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.

*i.* Records that constitute attorney work product, attorney-client communications, or that 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.

*j.* Unemployment insurance division tax and claim records pursuant to Iowa Code section 96.11(6) unless the records become part of the record in a hearing before an administrative law judge in a contested case pursuant to Iowa Code chapter 96.

**3.12(3) *Authority to release confidential records.*** The agency may have discretion to disclose some confidential records that 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 that authorizes limited or discretionary disclosure as provided in rule 871—3.4(22,84A). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 3.4(3).

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