

61—2.13(17A,22) Availability of records.

2.13(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law. Because this office primarily serves as an attorney for the state, many of its records are privileged. This office advises most state agencies. As a result, this office may have records in its possession which are subject to various confidentiality requirements. The office also has possession of many records which may be open records but which are copies of materials from another agency, which have been filed in judicial or administrative proceedings, or which are available in the state law library. This office will often refer persons to the originating agency, the clerk of the appropriate court, or the law library for those records. This is consistent with the functions of those entities, ensures that the requester get a clean official copy of the record, and protects the integrity of attorney files against unintended disclosures of confidential information.

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. (Iowa Code section 72.3)
- b. Tax records made available to the agency. (Iowa Code sections 422.20, 422.72)
- c. Records which are exempt from disclosure under Iowa Code section 22.7.
- d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))
- e. 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.”
- f. 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 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 agency. (See Iowa Code sections 17A.2, 17A.3.)
- g. 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. Civ.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.
- h. Antitrust investigative records as provided in Iowa Code section 553.9.
- i. Criminal investigative reports or investigative data under Iowa Code section 22.7(5).
- j. Criminal history and intelligence data under Iowa Code sections 22.7(9), 692.3, and 692.18.
- k. Confidential informant information under Iowa Code section 22.7(18).
- l. Presentence investigation reports under Iowa Code section 901.4.
- m. Minutes of testimony under Iowa Rules of Criminal Procedure 4(6)(a) and 5(5).
- n. Information obtained in grand jury investigations under Rule 3(4)(d).
- o. Information obtained through a prosecuting attorney’s subpoena under Rule 5(6).
- p. Information which is confidential under the law governing the referring agency client or the agency providing information to this office.
- q. Biographical or identifying information about a child victim under Iowa Code section 910A.13.
- r. Victim registration under Iowa Code sections 910A.6 to 910A.10 and 910A.17.
- s. Any other records made confidential by law.

2.13(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 law. Any person may request permission to inspect these records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 2.4(17A,22). If the agency initially determines that it will release such records, the agency may where appropriate notify interested persons and withhold the records from inspection as provided in subrule 2.4(3).