

11—4.13(8A,22) Availability of records.

4.13(1) *Open records.* Department records are open for public inspection and copying unless otherwise provided by rule or law.

4.13(2) *Confidential records.* The following records under the jurisdiction of the department may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. The department is a depository for the records of other public bodies. Records are maintained on paper, audiotape, microform, and electronic information storage and media systems. Although these records are in the physical possession of the department, the responsibility for compliance with Iowa Code chapter 22 remains with the “lawful custodian.” The public body requesting creation or storage of the record by the department is the lawful custodian (see Iowa Code section 22.1, definition of “lawful custodian”). All such records are confidentially maintained while in the possession of the department. Requests for access to any such records must be directed to the lawful custodian. Any records maintained by the department concerning the content, location, or disposition of such records are confidential in order to maintain security for access to confidential records pursuant to Iowa Code section 22.7.

b. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

c. Procurement proposals prior to completion of the evaluation process and the issuance of a notice of intent to award a contract by the appropriate procurement authority. (11—subrule 105.19(3), Iowa Administrative Code)

d. Tax records made available to the department. (Iowa Code sections 422.20 and 422.72)

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

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

h. Those portions of department staff manuals, instructions, or other statements issued which set forth criteria or guidelines to be used by department 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 of 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 department.

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

i. 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), 602.10112, 622.10 and 622.11, Iowa R. Civ. P. 1.503(3), Fed. R. Civ. P. 26(b)(3), and case law.

j. Reports to government agencies which, if released, would give advantage to competitors and serve no public purpose. (Iowa Code section 22.7)

k. Vehicle accident reports submitted to the department by drivers and peace officers. (Iowa Code section 321.271)

(1) However, access shall be granted to those persons authorized by Iowa Code section 321.271.

(2) Pursuant to Iowa Code section 22.7, the lawful custodian may release the following information from peace officers’ accident reports even though the reports are confidential: date, time, and location of accident; names of parties to the accident; owners and descriptions of the motor vehicles involved; name of investigating officer; names of injured; locations where motor vehicles and injured were transported; and the identification and owners of damaged property other than motor vehicles.

l. Confidential assignments of state vehicles by fleet services. These records include letters/memos detailing driver assignments and plate numbers for selected vehicles pursuant to Iowa Code sections 8A.362 and 321.19(1).

m. Computer resource security files containing names, identifiers, and passwords of users of computer resources. This file must be kept confidential to maintain security for access to confidential records pursuant to Iowa Code section 22.7.

n. Personal information in confidential personnel records of public bodies including but not limited to cities, boards of supervisors, and school districts.

o. Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making communications to that government body if the communications were available for general public examination. (See Iowa Code section 22.7.)

p. Information contained in records of the centralized employee registry created in Iowa Code chapter 252G, except to the extent that disclosure is authorized pursuant to Iowa Code chapter 252G. (See Iowa Code section 22.7.)

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

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

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

t. Any other records made confidential by law.

4.13(3) Authority to release confidential records. The department 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 11—4.4(8A,17A,22). If the department initially determines that it will release such records, the department may, where appropriate, notify interested persons and withhold the records from inspection as provided in subrule 4.4(3).

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