

THE FREEDOM OF INFORMATION ACT

Information about FOIA

The Freedom of Information Act (FOIA), 5 ILCS 140/1, *et. seq.*, took effect on July 1, 1984 and was substantially amended by PA 96-0542, effective January 1, 2010 (the “Act”). FOIA is the principal Illinois law governing the inspection of public records. FOIA guarantees access to documents and records generated by state and local governments, including the Northern Illinois Municipal Power Agency (“NIMPA” or the “Agency”). It provides the public with a tool to observe government in action and monitor governmental decisions. To comply with FOIA, NIMPA has developed the following guidelines.

Who has the right to inspect public records?

Any individual, corporation, partnership, firm or organization, acting individually or as a group has the right to inspect public records.

What information must be made available?

Full and complete information regarding the affairs of the Agency. In general, all records prepared, or used, received, and possessed by the Agency must be made available unless FOIA provides a specific exemption from disclosure. The Agency must provide a requesting party with records in the original form in which they are kept, regardless of physical form. If the records are in electronic format, upon request of the person making the FOIA request, NIMPA will supply the records either in a different electronic format, if feasible, or in paper format.

The following is a non-exhaustive list of records considered public:

- Bylaws
- Agency Policies and Protocols
- Administrative memoranda
- Audits
- Budgets
- Any account, voucher or contract dealing with expenditures of public funds
- Names, salaries, titles and dates of employment of all employees and officers of the Agency (**Note: NIMPA does not have any employees and its officers are not paid by the Agency**)
- Name of every official and final records of voting in all Agency proceedings
- Applications for any contract, permit, grant or agreement
- Correspondence

- Reports, documents, studies and publications prepared by independent consultants for the Agency
- Professional consultant contracts
- Administrative service contracts
- Leases
- Filings with state and federal regulatory agencies
- Board and Committee agendas and minutes
- Board and Committee resolutions or ordinances
- Purchase power contracts
- Project Committee Agreements with Agency members
- All information required by law

What information is exempted from public disclosure?

FOIA recognizes that in order to enable public bodies to perform certain governmental functions properly, and in order to protect personal privacy, some records or information should be kept confidential. A complete listing of exempted records and information is provided under SECTION 7 of the Act.

Procedure

The following is NIMPA's procedure for obtaining information under FOIA.

Robert Rogde is hereby designated as the FOIA Officer to whom all initial requests for access to the records of NIMPA are to be referred. Such requests are to be made via mail at 100 N. Island Avenue, Batavia, Illinois 60520 or email at rrogde@cityofbatavia.net, between the hours of 8:00 AM and 5:00 P.M., Monday through Friday. Mr. Rogde also may be reached at 630-879-1424.

In the event that Mr. Rogde is not available during those times described above, Joanne Peters is designated as the Deputy FOIA Officer to whom such initial requests are to be made. Ms. Peters is located at the offices of Rochelle Municipal Utilities, 333 Lincoln Highway, Rochelle, Illinois, 60618. Her email address is: JPeters@rmu.net. She also may be reached at 815-562-4155.

Except in instances when records are furnished immediately, the FOIA Officer, or (his/her) designees, shall receive requests submitted to NIMPA under the Act, to ensure that NIMPA responds to requests in a timely fashion and issues responses under the Act.

Upon receiving a request for a public record, the FOIA Officer shall:

- a. note the date NIMPA receives the written request;
- b. compute the day on which the period for response will expire and make a notation of that date on the written request;
- c. maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and
- d. create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

The FOIA officer shall determine whether the information is exempt or nonexempt under the provisions of FOIA. The Agency shall respond to a written request within five (5) working days from the receipt of the request. However, the Agency may request an additional five (5) working days to fulfill the request.

The Agency shall respond to the request by (i) approving the request; (ii) approving the request in part and denying the request in part; (iii) denying the request; (iv) or giving notice of extension. The Agency also may provide the requestor with an opportunity to appeal a response.

Response to Commercial Requests

A requestor must inform the Agency if a FOIA request is going to be used for a commercial purpose. It is a violation of FOIA to attempt to procure a public record without disclosing that the use is for a commercial purpose. For requests for commercial purposes, the Agency has twenty-one (21) days to respond with an estimate when the request will be completed and the fees associated with it. However, these records must be provided within a *reasonable* time. The Agency may require the requestor to pay in full before copying any documents.

Requests from the news media or non-profit scientific or academic organizations are not classified as a request for commercial purposes if the purpose of the information is to access and disseminate information concerning news and current events; write articles of opinion or features of interest to the public; or used for the purpose of academic, scientific or public research/education.

Approval

Upon approval of a request for public records, NIMPA may either provide the materials immediately or up to five days after a request, give notice that the materials shall be made available upon payment of reproduction costs, or give notice of the time and place for inspection of records. Generally, public records will be made available for inspection during regular business hours.

Undue Burden

Categorical requests creating an undue burden upon the Agency shall be denied only after extending to the requestor an opportunity to reduce the request to manageable proportions.

Denial/Partial Denial/Appeal

A denial of a request for public records shall be made in writing. It shall state a detailed reason for the denial in accordance with either Section 3(f) or Section 7 of FOIA, and the names and titles of the individuals responsible for the decision. It shall also give notice of the requestor's right to appeal the denial, in writing, to the Public Access Counselor (PAC) of the State of Illinois, with the address and telephone number of the PAC, and the right to judicial review under Section 11 of the Act.

The PAC shall affirm the denial, provide access to the records, or provide access to portions of the records.