

**FREEDOM OF INFORMATION ACT REQUESTS**  
**MBS INTERNATIONAL AIRPORT COMMISSION**  
**PUBLIC SUMMARY**

Right to Request Public Records

All Freedom of Information Act requests must be submitted in writing to MBS's FOIA Coordinator. This includes requests received by facsimile, electronic mail or through other electronic means. Requests received by facsimile, electronic mail, or other electronic transmission are not considered received until one (1) business day after the electronic transmission is made.

MBS's Duty to Respond

Within five (5) business days after receiving a request for public records the FOIA Coordinator will:

- Grant the request and provide the records requested;
- Grant the request in part and deny the request in part;
- Deny the request because the records do not exist or are not subject to disclosure;
- Request an extension of ten (10) business days for additional response time;
- Request a deposit.

Fees

In accordance with the FOIA, MBS will charge fees for:

- The actual labor costs for searching for, locating, and examining records;
- The actual labor costs for redacting records;
- Non-paper physical media;
- Paper copies;
- The actual labor costs for duplication or publication of records; and
- Mailing.

MBS may charge a deposit if the anticipated cost of granting the request is expected to exceed \$50.00. In such cases, a notice to provide a good faith deposit of 50% of the cost prior to granting the request will be sent. Under limited circumstances, MBS may charge a 100% deposit from an individual who has not paid a previous FOIA fee in full.

Right to Appeal

An individual has the right to undertake either of the following actions to appeal a denial of a request or fee charged in association with a request:

1. Submit to the Chairperson of the MBS International Airport Commission a written appeal that specifically states the word "appeal" and identifies the reasons reversal of the disclosure denial or fee charged is appropriate.
2. Seek judicial review in the Saginaw County Circuit Court.

## FREEDOM OF INFORMATION ACT (FOIA) POLICY

- A. PURPOSE: The purpose of this policy is to assure compliance with the Freedom of Information Act (Act) by the MBS International Airport Commission (MBS).
- B. DESIGNATION OF FOIA COORDINATOR: The Airport Manager (or his/her designee) shall serve as the FOIA Coordinator and shall be responsible for administering this policy.
- C. DEFINITIONS: The words and phrases contained in this policy shall have the meaning given to them, if any, by the Act.
- D. RECEIVING AND RESPONDING TO FOIA REQUESTS:
  - a. The FOIA Coordinator shall be responsible for accepting and processing requests for public records covered under the Freedom of Information Act and shall be responsible for approving a denial in accordance with the Act.
  - b. All FOIA requests must be submitted in writing. This includes requests received by facsimile, electronic mail or through other electronic means. Requests received by facsimile, electronic mail, or other electronic transmission are not considered received until 1 business day after the electronic transmission is made.
    - i. An electronic mail request that is transmitted to a spam or junk mail folder is not considered received until 1 business day after MBS becomes aware of the request.
    - ii. The FOIA Coordinator shall check the spam or junk mail folder on a weekly basis for FOIA requests and shall keep a log of when such requests are first delivered and received.
  - c. A request must describe the public record sufficiently to enable MBS to find the public record.
  - d. Within 5 business days after receiving a request for public records the FOIA Coordinator will:
    - i. Grant the request;
    - ii. Grant the request in part and deny the request in part;
    - iii. Deny the request;
    - iv. Request an extension of 10 business days for additional response time; or
    - v. Request a deposit in accordance with Section F, below.
  - e. Failure to respond to a request constitutes a denial if:
    - i. The failure to respond was willful and intentional; or
    - ii. The request included language that would allow it to be identified as a request for public records or a request made pursuant to the FOIA.
  - f. If any of the requested documents are on MBS's website, the requestor shall be informed and no fee shall apply to the request.
  - g. Notice to deny a request in whole or in part shall contain an explanation for the grounds under FOIA (or other law) for the determination that the public record or portion of the public record is exempt from disclosure.
  - h. If an exemption is used to deny a request, the specific statutory citation for and verbiage of the exemption will be included in the denial. All denials must be signed by the FOIA Coordinator. All denials will also include a description of the denied record, an explanation of the requestor's right to appeal, and/or a certificate verifying that the requested record does not exist under the name given by the requestor or by another name reasonably known to MBS.
  - i. The FOIA Coordinator will keep on file a time stamped copy of all requests and responses for a period of 1 year following their receipt or issuance.

E. FEES:

- a. In accordance with the FOIA, MBS will charge fees for:
  - i. The actual labor costs for searching for, locating, and examining records;
  - ii. The actual labor costs for redacting records;
  - iii. Non-paper physical media;
  - iv. Paper copies;
  - v. The actual labor costs for duplication or publication of records; and
  - vi. Mailing.

The attached Cost Worksheet shall be utilized to determine the fee charged by MBS.

- b. Actual labor costs will be charged in 15-minute increments, rounded down. In calculating the cost of labor incurred in searching for, locating, and examining records, redacting records, and duplication or publication, MBS may not charge more than the hourly wage of the lowest paid employee capable of retrieving the information necessary to comply with the request. MBS may also add up to 50% to the multiplier used to account for benefits. Subject to the 50% limitation, MBS shall not charge more than the actual cost of fringe benefits.
- c. If no MBS employee is capable of redacting the records, MBS may forward such records to its legal counsel for redaction. Charges for such contracted labor may not exceed 6 times the State minimum wage and must be itemized on the Cost Worksheet.
- d. A fee shall not be charged for the cost of searching for, examining, reviewing, and deleting and separating exempt from non-exempt information unless such labor requires 15 minutes or more to complete.
- e. The first \$20.00 of the fee shall be waived for each request of an individual who is entitled to information under the Act and who submits an "Affidavit of Indigency" stating they are indigent and receiving public assistance or, if not receiving public assistance, stating facts showing their inability to pay the full fee.
  - i. An indigent individual may only receive 2 such fee waivers per calendar year.
- f. The first \$20.00 of the fee shall be waived for each request of a nonprofit organization that is formally designated by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act.
- g. If MBS fails to timely respond to a request, it must reduce its labor costs by 5% per day a response is late up to a maximum 50% reduction if:
  - i. The late response was willful and intentional; or
  - ii. The request included language that would allow it to be identified as a request for public records or a request made pursuant to the FOIA.
- h. The Airport Manager shall provide for the calculation of a fee for reproducing documents. This calculation will include the cost of paper, copy machine expenses, and supplies. The Airport Manager shall also determine the fee to be charged for envelopes. These fees shall be reviewed periodically and updated as necessary.

F. DEPOSITS: MBS may charge a deposit if:

- a. The anticipated cost of granting the request is expected to exceed \$50.00.
  - i. In such cases, a notice to provide a good faith deposit of 50% of the cost prior to granting the request will be sent.
  - ii. The request for a good faith deposit must also include a "best efforts estimate" as to the amount of time it will take MBS to fulfill the request upon receipt of the deposit.
- b. MBS may require a 100% deposit from an individual who has not paid a previous FOIA fee in full. Such a deposit may only be required if:
  - i. The final fee for the prior written request was not more than 105% of the estimate fee.

- ii. The public records made available contained the information being sought in the prior written request and are still in MBS's possession.
- iii. The public records were made available to the individual, subject to payment, within the time frame provided by law.
- iv. No fewer than 90 days but no more than 365 days have passed since MBS notified the individual in writing the records were available for pick up or mailing.
- v. The individual is unable to show proof of prior payment to MBS.
- vi. MBS calculates a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

- G. APPEAL: The Airport Manager shall forward any copy of an appeal of a full or partial denial of a FOIA request, or fee associated with preparing the response to same, to MBS's legal counsel. The MBS International Airport Commission shall respond to such appeals within ten (10) business days from their receipt of same.
- H. PUBLIC SUMMARY: The Airport Manager shall create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit a FOIA request to MBS and explaining how to understand MBS's responses, deposit requirements, fee calculations, and avenues for challenge and appeal.
- I. PUBLICATION: MBS shall post and maintain this policy, as well as the public summary, on its website, as well as provide free copies of same upon request by visitors at MBS's main business office. Either a copy of both this policy and the public summary or the website link to such documents shall be provided with any response to a FOIA request.
- J. ATTACHMENTS: The attachment(s) to this policy may be revised, in a manner consistent with this policy, by the Airport Manager as needed due to changes in the law.
- K. EFFECTIVE DATE: This policy shall become effective on July 1, 2015.

### Freedom of Information Act Request Cost Worksheet

<b>Pursuant to the Michigan Freedom of Information Act, the following costs will be charged for responses to FOIA requests.</b>		
<b>Paper Copies (Cost Per Copy):</b> <div style="text-align: right; margin-right: 50px;"> <b>Letter</b> (single-sided): ___ cents per page  <b>Letter</b> (double-sided): ___ cents per page  <b>Legal</b> (single-sided): ___ cents per page  <b>Legal</b> (double-sided): ___ cents per page  <b>Other:</b> _____ Cost per page: _____         </div>	<b>Number of Pages:</b> x _____ = x _____ = x _____ = x _____ = x _____ =	<b>Total Cost</b> \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
<b>Non-Paper Physical Media:</b> <b>Other Media (tape/disk/drive):</b> _____ Cost: _____	<b>Number:</b> x _____ =	<b>Total Cost</b> \$ _____
<b>Labor Cost for Searching For, Locating, and Examining Records</b> (15 minute increments rounded down) <b>Hourly Wage Charged:</b> _____	<b>Minutes Spent:</b> x _____ =	<b>Total Cost</b> \$ _____
<b>Labor Cost for Searching For Redacting Records</b> (15 minute increments rounded down) <b>Hourly Wage Charged:</b> _____ Name of firm/individual if contracted labor used: _____	<b>Minutes Spent:</b> x _____ =	<b>Total Cost</b> \$ _____
<b>Labor Cost for Duplication/Publication of Records</b> (15 minute increments rounded down) <b>Hourly Wage Charged:</b> _____	<b>Minutes Spent:</b> x _____ =	<b>Total Cost</b> \$ _____
<b>Mailing:</b> <div style="text-align: right; margin-right: 50px;"> <b>No. 10 Business Envelope:</b> ___ cents  <b>9 x 12 Envelope:</b> ___ cents  <b>10 x 13 Envelope:</b> ___ cents  <b>Other:</b> ___ cents   <b>Postage (select method):</b> \$ ___ per stamp               \$ ___ per pound               \$ ___ per package         </div>	<b>Number of Envelopes:</b> x _____ = x _____ = x _____ = x _____ =  <b>Actual Postage:</b> x _____ = x _____ = x _____ =	<b>Total Cost</b> \$ _____ \$ _____ \$ _____ \$ _____  \$ _____ \$ _____ \$ _____
	<b>Subtotal</b>	\$ _____
<b>Indigent or Designated Non-Profit</b>	<b>Subtract \$20.00</b>	\$ _____
	<b>Estimated Cost</b>	\$ _____
<b>Note:</b> Estimated Cost exceeds \$50.00 Good Faith Deposit of 50% required <u>before</u> request will be processed	<b>Date Paid:</b> _____	<b>Deposit:</b> \$ _____
	<b>Date Paid:</b> _____	<b>Balance:</b> \$ _____

If you believe the fee charged is excessive, you have the right to undertake either of the following actions to appeal it: 1) submit to the MBS International Airport Commission a written appeal that specifically states the word "appeal" and identifies the reasons the fee is excessive; or 2) seek judicial review in the Saginaw County Circuit Court. You may also have the right to receive attorney fees and damages as provided in the Freedom of Information Act if, after judicial review, the Circuit Court determines that MBS has acted arbitrarily and capriciously.