

***ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT  
AUTHORITY***



July 1, 1999

**PROCEDURES FOR  
INSPECTION OF RECORDS**

Alaska Industrial Development and Export Authority (“Authority”) is a public corporation and agency of the State of Alaska within the Department of Community and Economic Development. The purpose of the Authority is to promote, develop, and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment, and to create additional employment through various programs in the Authority. The public may inspect the records, files, and information in possession of the Authority in accordance with the following procedures. All the records, files, and information in possession of the Authority are public records and, except as set out in AS 44.88.215, which is shown below, open to inspection by the public during regular office hours. The Authority shall respond to a request for information in accordance with the procedures set out herein.

**Sec. 44.88.215. Confidentiality of information.** (a) In order to promote the purposes of AS 44.88, unless the records were a matter of public record before submittal to the authority, the following records, files, and information shall be kept confidential upon the request of the person supplying the information or upon the request of the project, bond, loan, or guarantee applicant or borrower:

- (1) income tax returns;
- (2) financial statements, profit-and-loss statements, and cash flow projections, except the information required by the authority to calculate debt service coverage on the loan;
- (3) financial business plans;
- (4) credit reports from consumer reporting agencies and other credit information obtained from banks, creditors, or other credit reporting entities;
- (5) trade secrets;
- (6) appraisals, except the name of the appraiser, the date of the appraisal, and the fair market value determined for the property appraised;
- (7) market surveys and marketing strategy information; and
- (8) any information required to be kept confidential by a federal law or regulation or by state law.

(b) Information compiled by the authority from information described in (a) of this section shall be kept confidential unless disclosure is authorized by the person supplying the information and by the project, bond, loan, or guarantee applicant or borrower.

(c) The information that is determined to be confidential under (a) or (b) of this section is not a public record under AS 09.25.110 – 09.25.220.

(d) Nothing in this section shall prevent a legislator from reviewing information otherwise confidential under this section if the legislator has a valid legislative purpose for reviewing the information and if the legislator agrees to maintain the confidentiality of the information. (§ 8 ch 109 SLA 1998)

## **DISCLOSURE REQUIREMENTS**

### **ACCESS TO RECORDS; RIGHTS; REQUIREMENTS; FORMAT.**

a. A public record maintained by the Authority is available for inspection and copying in the format in which the Authority maintains or disseminates the record. The Authority shall duplicate and provide copies of a public record upon request and upon payment of the applicable fee.

b. The Authority is not required to compile or summarize its public records or manipulate its data to create new records in response to a request for public records.

c. The Authority may manipulate its data to create electronic services and products if

- i. the Authority can do so without impairing its functioning;
- ii. the data is protected from intentional or accidental modification or destruction; and
- iii. the requestor pays for the cost of developing the requested electronic service or product upon payment of the applicable fee.

d. Except as provided by law, if the request is for a public record that contains confidential information as set out in AS 44.88.215, and the Authority has not been granted authorization to disclose the confidential information, the Authority shall delete or mask the nondisclosable confidential and provide the requested public records upon payment of the applicable fee.

### **REQUESTOR'S JUSTIFICATION OR NEED FOR RECORDS.**

All disclosable public records must be made available upon request and compliance with the requirements of AS 09.25.110 – AS 09.25.125 and the procedures set out in this booklet. The Authority may not request a justification or explanation of need or intended use, but may inquire whether the requestor is a party, or represents a party, involved in litigation with the state or a public agency to

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which the requested record is relevant. If so, the requestor shall make the request in accordance with applicable court rules.

### **NONDISCRIMINATION.**

When providing public records or electronic services and products, the Authority may not discriminate among requestors or classes of requestors, such as academic researchers, state and federal agencies, members of the public, news organizations, genealogists, or nonprofit groups.

## **REQUESTS FOR PUBLIC RECORDS**

### **RECORDS PREPARED FOR ROUTINE DISTRIBUTION.**

A request for production of materials prepared by the Authority for routine public distribution, including pamphlets, published maps, copies of speeches, press releases, educational materials, blank forms and applications, must be honored and the information supplied in reasonable quantities as determined by the Authority. The Authority may set a reasonable limit on the number of copies of materials that the Authority provides in response to a request under this section. The Authority may take into account its existing stock of the materials in determining that limit. Copies must be furnished with reasonable promptness in response to the request.

### **FORM OF REQUEST.**

- a. Except as otherwise provided herein, a request to the Authority for a public record must be in writing.
- b. An oral request for records is considered a valid request under the procedures in this booklet. Upon receipt of an oral request, the Authority shall inform the requestor of the procedures of this section. If the request involves a variety of records, the Authority may require that the request be submitted in writing.

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c. An oral request is deemed denied if not granted within five working days after the Authority received the request, excluding the request day and including the following five working days. The decision to grant or deny an oral request is within the sole discretion of the Authority. A requestor's only remedy if the oral request is denied is to make a written request in accordance with (a) of this section.

d. If a requestor making an oral request for public records is unable to write a request due to a physical or mental disability, the Authority shall either assist the requestor in preparing a written request or treat the oral request as a written request.

### DESCRIPTION OF RECORDS SOUGHT.

a. A requestor must describe the public records sought in sufficient detail to enable the Authority to locate the records. The Authority shall make reasonable efforts to assist in the identification and description of records sought, and to assist the requestor in formulating the request. If the records are described in general terms, the Authority shall attempt to communicate with the requestor in order to identify the public records requested, speed the response, and lessen the administrative burden of processing an overly broad request. These attempts may not be used as a means to discourage requests.

b. If the Authority determines that the description of the records sought by the request is not sufficient to allow the Authority to identify the requested records, the Authority shall, no later than 10 working days after receipt of the request, notify the requestor that the request cannot be processed until additional information is furnished.

### INITIAL ACTION UPON RECEIPT OF A REQUEST.

a. Except for requests governed by the section RECORDS PREPARED FOR ROUTINE DISTRIBUTION, the Authority shall maintain a log of each written request for public records that it receives. The log must include the date the request was received by the Authority, and the date that

additional information, if required, was requested under the section DESCRIPTION OF RECORDS SOUGHT.

b. The log of requests for public records is a public record. It must be preserved, included as a separate item on the Authority's record retention schedules, and provided upon request in accordance with the procedures in this booklet.

**RESPONSE TO REQUEST; TIME LIMITS.**

a. Except as provided in this section, as soon as practicable, but not later than 10 working days after the date the Authority receives a request for public records that complies with the procedures in this booklet, or 10 working days after the Authority sends notice of the request pursuant to (b) of this section, whichever is later, the Authority shall

- i. furnish all requested records that are disclosable; and
- ii. advise the requestor which of the requested records are nondisclosable, if any, and the specific legal authority and specific facts supporting nondisclosure.

b. Upon receipt of a written request to inspect public records that complies with the procedures in this booklet, the Authority may send by hand delivery, mail, or facsimile, notice of the request to the person supplying the information or to the project, bond, loan or guarantee applicant or borrower. If the Authority sends notice of the request to inspect public records, the time within which the Authority must respond to the request under (a) of this section, shall be extended to provide the project, bond, loan, or guarantee applicant or borrower 10 working days from the date notice is sent by the Authority to review and request that the Authority keep confidential additional records, files and information identified in AS 44.88.215(a) not previously requested to be kept confidential. The Authority may furnish for public inspection any requested record, file or information identified in AS 44.88.215(a) that has not been requested to be kept confidential.

c. If the Authority decides that a public record is, in fact, a request for electronic services and products, the Authority shall advise the requestor of its decision within 10 working days after receipt of a request and the reasons for this decision.

d. Any time that elapses between the time a requestor is sent notice that processing the request will generate chargeable fees and the time the requestor makes suitable arrangement for payment of those fees is excluded from the 10 working day period under (c) of this section and the section REQUEST FOR INFORMATION DESCRIBED IN AS 44.88.215, or any extension of that period.

e. The Authority may extend the basic 10 working day period established under (c) of this section or the section REQUEST FOR INFORMATION DESCRIBED IN AS 44.88.215 for a period not to exceed 10 additional working days by providing notice to the requestor within the basic 10 working day period. The notice must state the reasons for the extension and the date by which the Authority expects to be able to furnish the requested records or to issue a determination that the records are not disclosable. The notice must include a statement that the extension is not invoked for purposes of delay. The basic 10 day period may be extended only when one or more of the following circumstances exist, and then only as to those specific documents within the request as to which the circumstances apply:

- i. there is a need to search for and collect the requested records from field or other offices that are separate from the office responsible for maintaining the records;
- ii. there is a need to search for, collect, and examine a voluminous amount of separate and distinct records sought in a single request;
- iii. there is need for consultation with an officer or employee who is absent on approved leave or official business;
- iv. the basic response period comes during a peak workload period; or
- v. there is a need to consult with legal counsel to ensure that protected interests of private or government persons or entities are not infringed.

f. If a search or copying task will, within the 10 day period and any authorized extension under (e) of this section, substantially impair the other functions of the Authority or an office responsible for maintaining the requested records, the Authority may request an additional extension from the executive director of the Authority. Upon receipt of a request for an additional extension, the executive director shall promptly give the requestor and the Authority an opportunity to be heard. The executive

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director shall tender a speedy decision. The executive director may grant an extension only to the authority in extraordinary circumstances and only for the minimum period determined by the executive director to be required to complete the search or copying of the public records without substantial impairment of the other Authority functions.

g. The Authority shall give a written response granting or denying a written request for public records within the prescribed time limit. If a response is not received by a requestor by the expiration of the time limit, the requestor may consider the request denied.

h. The time limits set out in this section do not apply if the requestor agrees in writing that the requested records need not be supplied until a specified date. If the requestor does not agree in writing to an extension of time beyond that date, an extension beyond the specified date is governed by (e) and (f) of this section.

### DELETION OF NONDISCLOSABLE INFORMATION.

a. If a record contains both disclosable and nondisclosable information, the nondisclosable information must be segregated and withheld and the disclosable information must be disclosed. If the disclosable portions of a record cannot reasonably be segregated from the nondisclosable portions in a manner that allows information meaningful to the requestor to be disclosed, the Authority may not disclose the record.

b. If an electronic file or database contains both nondisclosable and disclosable records, the Authority must

- i. delete or mask the nondisclosable information before releasing the requested record; or
- ii. write a program to extract the requested disclosable public records from the electronic file or data base.

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c. Masking or deleting nondisclosable information does not constitute providing an electronic service or product. Except as provided in the section RECORDS IN ELECTRONIC FORM or other law, a fee charged shall be consistent with the section COPIES AND FEES.

### DENIAL OF REQUEST.

- a. A request for a public record that complies with these procedures may be denied only if
  - i. the record is not known to exist after the Authority makes a diligent search for it;
  - ii. the record is not in the Authority's possession, and after a diligent search the Authority does not know where the record is to be found;
  - iii. the record has been destroyed in accordance with an applicable record retention schedule;
  - iv. nondisclosure of the record is authorized by a federal law or regulation, or by state law; or
  - v. the record is believed to be in the Authority's possession but has not yet been located, in which case the Authority shall proceed under (f) of this section.
- b. A request may be denied by the executive director or by an Authority employee to whom denial authority has been delegated by the executive director.
- c. An initial denial of a written request must be in writing; must state the reasons for the denial, including any specific legal grounds for the denial; and must be dated and signed by the person issuing the denial. If a request is denied by an Authority employee to whom denial authority has been delegated, the notice of denial must reflect this delegation. A copy of this and the following three sections must be enclosed with the denial.
- d. A denial of a written request, in whole or in part, must state that
  - i. the requestor may administratively appeal the denial by complying with the procedures in the section APPEAL FROM DENIAL; MANNER OF MAKING;
  - ii. the requestor may obtain immediate judicial review of the denial by seeking an injunction from the superior court under AS 09.25.125;

iii. an election not to pursue injunctive remedies in superior court shall have no adverse effects on the rights of the requestor before the Authority; and

iv. an administrative appeal from a denial of a request for public records requires no appeal bond.

e. A denial of a written request is considered to be issued at the time the denial is either delivered to the United State Postal Service for mailing, or hand-delivered to the requestor by an employee or agent of the Authority.

f. If a written request is denied because a record has not yet been located and the record is believed to exist in the Authority's possession, the Authority shall continue to search until the record is located or until it appears that the record does not exist or is not in the public agency's possession. The Authority shall periodically inform the requestor of its progress in searching for the requested record.

g. A record that is the subject of a public records request that has been denied shall not be destroyed or transferred from the Authority's custody, except that records may be transferred to state archives and records management services. The Authority may not destroy or transfer custody of a record to which access has been denied or restricted until at least 60 working days after the requestor is notified in writing that the request has been denied, or if there is an administrative or judicial appeal or other legal action pending at the end of the 60 working day period, until the requestor has exhausted those actions.

**APPEAL FROM DENIAL; MANNER OF MAKING.**

a. A requestor whose written request for a public record has been denied, in whole or part, may ask for reconsideration of the denial by submitting a written appeal to the executive director.

b. An appeal under (a) of this section must be mailed or hand-delivered to the Authority within 60 working days after the denial is issued and must include the date of the denial and the name and address of the person issuing the denial. The appeal must also identify the records to which access was denied and which are the subject of the appeal. If an appeal is from the failure of the agency to respond to the records request within the appropriate time limit under the section RESPONSE TO REQUEST;

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TIME LIMITS, the appeal must so state, must identify the records sought, and must identify the date of the request.

c. The 60 working days within which an appeal must be filed begins to run upon the issuance of the denial or, if no denial is issued, upon the expiration of the time period within which the Authority should have responded.

### APPEAL DETERMINATIONS; TIME ALLOWED; BY WHOM MADE.

a. As soon as practicable, but not later than the 10 working days after the close of the record on appeal, the executive director shall issue a written determination stating which of the records that are the subject of the appeal will be disclosed and which records will not be disclosed. The written determination must comply with the section CONTENTS OF DETERMINATION DENYING APPEAL.

b. The executive director may extend the 10 working day period for a period not to exceed 30 working days upon written request from the requestor, or by sending a written notice to the requestor within the basic 10 working day period.

c. The executive director may delegate authority and duties under (a) and (b) of this section to a full-time employee of the Authority not involved in the denial and not subordinate to the employee responsible for the denial. The employee delegated this authority may not subdelegate to another employee.

### CONTENTS OF DETERMINATION DENYING APPEAL.

A determination under the section APPEAL DETERMINATIONS; TIME ALLOWED; BY WHOM MADE responding to an appeal must be in writing, must specify the specific statute, regulation, procedure, or court decision that is the basis for the denial, and must state briefly the reason for the denial. A denial under this section is the final Authority decision. A denial must further state that, as provided in AS 09.25.124, the requestor may obtain judicial review of the denial by appealing the denial to the superior court.

**RECORDS IN ELECTRONIC FORM.**

a. Except as otherwise provided by law, public records maintained in electronic form are subject to disclosure and copying. Upon receipt of a request complying with these procedures, the Authority shall provide a copy of a public record in the form in which it is maintained or disseminated by the Authority. The Authority may not release proprietary software except as provided in section SOFTWARE COPYRIGHTS.

b. A copy of an electronic public record is generated by copying the electronic file that was used to produce the printed form of the public record. Except as provided in (c) and (d) of this section, the Authority shall charge a fee to duplicate an electronic public record in accordance with section COPIES AND FEES.

c. A copy of an electronic public record in a geographic information system is generated by copying the plot file, the associated geographic and tabular files, or other files required to generate the printed form of the public record. The Authority shall charge a fee to duplicate an electronic public record in a geographic information system in accordance with section FEES FOR ELECTRONIC SERVICES AND PRODUCTS; FEE REVIEW.

d. If the Authority enters into a contract with a private, public, or nonprofit entity to provide electronic copies of public records, the Authority is not relieved from complying with AS 09.25.110 and these procedures.

**COSTS AND FEES.**

a. The established fee schedule for duplicating public records is:

i. For requests involving the Authority's duplication of 50 or fewer pages of public records, the fee shall be \$0.25 per page copied. The fee is per page so when a page has information on both sides the fee is \$0.25 for such a page or when a page is of standard duplicating size (8 ½" x 11", 8 ½" x 14", or 11" x 17") the fee is \$0.25 for such a page.

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ii. For requests involving the duplication of more than 50 pages or pages of non-standard duplicating size, the fee shall be, as solely determined by the Authority, either:

(1) \$0.25 per page as sated in (I) of this section plus the cost for the Authority employee performing the duplication based upon the loaded (overhead including benefits) hourly rate of that employee; or

(2) the actual cost of having the duplication performed by a vendor of the Authority's choice.

b. Except in the case of news organizations, fees must be paid before the records are disclosed. The Authority may require payment in advance of a search for a public record if the Authority reasonably believes that the production of records for one requestor in a calendar month exceeds five hours. If the request is from a news organization or an employee or agent of a news organization and the executive director reasonably believes that the requested search will require more than five hours to complete, the executive director may require payment in advance of the search by the news organization only when

- i. the request is unreasonable or in bad faith;
- ii. the news organization has failed to pay for previous requests; or
- iii. the request requires extraordinary expenditure of state resources.

c. The Authority may waive the requirement under (b) of this section for payment in advance of the requestor and the Authority agree in writing to mutually acceptable time frames for payment.

## **REQUESTS FOR ELECTRONIC SERVICES AND PRODUCTS**

### **AUTHORITY RESPONSIBILITIES.**

a. The Authority may contract with a private, public, or nonprofit entity to provide electronic services and products. A contract under this section must provide that the Authority retains ownership

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of public records, and that the Authority must ensure compliance with AS 09.25.110 – AS 09.25.220, these procedures and the state’s record management program.

b. The Authority shall identify databases that undergo periodic or continuous updates.

c. The Authority shall notify the requestor of electronic services and products that any agreement for those services or products must contain a release of liability that the Authority is not liable for any harm or injury that a requestor may suffer as a consequence of any inaccurate information the requestor may obtain through the electronic service or product.

### FORM OF REQUEST

a. Except as provided in (b) and (d) of this section, a request to the Authority for electronic services and products must be in writing.

b. An oral request for electronic services and products is considered a valid request under these procedures. If the request involves a variety of electronic services and products, the Authority may require that the request be submitted in writing.

c. An oral request is deemed denied if not granted within 10 working days after the Authority receives the request, excluding the request day and including the following 10 working days. The decision to grant or deny a request under (b) of this section is within the sole discretion of the Authority. Upon receipt of an oral request, the Authority shall inform the requestor of the provisions of this section.

d. If a requestor making an oral request for electronic services and products is unable to write a request due to a physical or mental disability, the Authority shall assist the requestor in preparing a written request, or treat the oral request as a written request.

e. A requestor must describe the electronic services and products sought with enough specificity to the Authority to ascertain the electronic services and products that are requested.

### RESPONSE TO REQUEST; AGREEMENT FOR ELECTRONIC SERVICES AND PRODUCTS.

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a. The Authority may require a written agreement, signed by the requestor and an authorized employee of the Authority, before beginning work required to provide electronic services and products.

The agreement shall include

- i. estimated fees and payment arrangements;
- ii. provisions to protect the security and integrity of the information system; and
- iii. a release of liability for the Authority.

b. Except for the release of liability under (a)(iii) of this section, an agreement under this section may not contain restrictions on third-party use of the information, including restrictions on sale, distribution, or reformatting of the information.

### **DENIAL OF A REQUEST**

When a request for electronic services or products is denied because the Authority cannot reasonably provide the requested work, the Authority shall provide a response to the requestor explaining that the requested service or product cannot be provided. To the extent possible, the response must further inform the requestor of how to obtain the public records that would have been used to satisfy the request for electronic services and products.

### **FEEES FOR ELECTRONIC SERVICES AND PRODUCTS.**

The fee schedule for electronic services and products shall be same as the rates established by the Department of Administration and published in the most current version of the “Guide to Data Center & Telecommunication Services”.

### **REQUEST FOR INFORMATION DESCRIBED IN AS 44.88.215**

If a person requests to inspect information that the Authority has compiled from confidential information described in AS 44.88.215(a), the Authority shall send to the person supplying the information and to the project, bond, loan or guarantee applicant or borrower, notice of the request and solicit

authorization to disclose the information. The Authority shall send a copy of this notice to the person requesting to inspect the information. Only if the person supplying the information and the applicant or borrower grant their authorization may the authority furnish the requested records that the Authority compiled from confidential information described in AS 44.88.215(a). The Authority shall, subject to the procedures set out herein, except the section RESPONSE TO REQUEST; TIME LIMITS, furnish these authorized records within 10 working days after the person supplying the information and the applicant or borrower grant their authorization.

## **GENERAL PROVISIONS**

### DEFINITIONS.

Unless the context indicates otherwise, in this booklet

- a. “Authority” means the Alaska Industrial Development and Export Authority;
- b. “executive director” means the executive director of the Alaska Industrial Development and Export Authority;
- c. “database” means information that is created or compiled by the Authority or its agent to support the Authority’s primary business or responsibility and that contains a set of interrelated data or data files in a computerized form organized so the data can be expanded, updated, and retrieved rapidly;
- d. “electronic format” means information that is not stored in paper format, including electronic information stored or provided in computer-based, optical, magnetic, or microfiche forms;
- e. “geographic information system” or “GIS” means an integrated system linking spatial and tabular data that is a system of computer hardware, software, and procedures supporting the capture, management, manipulation, analysis, and display of spatially referenced data;
- f. “hard copy” means a copy of a record in printed format;
- g. “working day” means every day except Saturday, Sunday, or a legal state holiday.