

Section 104, Public Access to Public Documents.

I. GENERAL:

A. PURPOSE:

It is the intent of this document to adopt a procedure for public access to public records pursuant to Mississippi Code Annotated, Section 25-61-1, et. seq.

II. DEFINITIONS:

For purposes of this procedure, the following definitions apply:

A. "Public Records" shall have the same meaning as that term is defined in Mississippi Code Annotated § 25-61-3, as the same may be amended, but the definition shall not include any documents or records specifically declared confidential or privileged or exempted from public access by law or by a decision of a court of this State or the United States.

B. "Protected Documents" shall mean records furnished to the Port by third parties which contain trade secrets or confidential commercial or financial information.

C. "Port" shall mean the Mississippi State Port Authority at Gulfport.

D. "Data Processing Software" shall have the same meaning as that term is defined in the Mississippi Code Annotated § 25-61-3, as the same may be amended, but the definition shall not include any programs or routines used to employ and control the capabilities of data processing hardware specifically declared confidential or privileged or exempted from public access by law or by a decision of a court of this State or the United States.

E. "Request" shall mean a written request to inspect, copy, or obtain reproductions of Public Records, which describes the Public Record in sufficient detail to allow the Port to identify the documents requested. A request shall be considered made when it is actually received by the Port.

III. DISCUSSION:

The Port shall promptly review each Request.

A. If the Request does not adequately describe the Public Record(s) being sought or is otherwise ambiguous, written notice to that effect shall be given by the Port Authority to the requesting party. If sufficient clarification regarding the Request is not timely received, the Port will employ its best judgment to determine what Public Records are being requested.

B. The Port shall produce or deny the requested Public Records no later than seven (7) working days from the date of receipt of Request. If the Port is unable to produce the requested Public Records by the seventh working day after the Request is made, the Port shall provide to the requesting party a written explanation stating that the record will be produced and specifying with particularity why the Request cannot be produced within the seven-day period. In no event

shall the Port's production to a Request be later than fourteen (14) working days from receipt of the original Request by the Port unless there is a mutual agreement between the Port and the requesting party to allow for a longer time period.

C. If the Request seeks documents which are exempt from disclosure pursuant to Mississippi Code Annotated §§ 25-61-9, 25-61-11, 25-61-12 or otherwise, the Port shall promptly notify the requesting party in writing that the exempt documents shall not be produced and shall state the specific reasons for the denial. If the Public Records subject to a Request contain both exempt and nonexempt material, the Port shall redact all exempt portions of the Public Records and make the nonexempt portions available for inspection or copying, as appropriate. The Port shall maintain a file of all denials of requests for public records and preserve such denials for three (3) years from the date of each denial, which shall be available for inspection and copying upon written request.

D. If the Request seeks Data Processing Software obtained by the Port under a licensing agreement that prohibits its disclosure and said software is a trade secret or Data Processing Software produced by the Port which is deemed sensitive, as defined under Mississippi Code Annotated § 25-61-9(6), the Port shall promptly notify the requesting party in writing that the exempt Data Processing Software shall not be produced and shall state the specific reasons for the denial. If requested, the Port shall produce any nonexempt records created by said Data Processing Software and any other nonexempt data relied upon in compiling said records.

E. If the Request seeks Protected Documents furnished to the Port by a third party, the Port shall notify in writing the requesting party and the third party who furnished the Protected Documents that such documents will be produced to the requesting party if within a reasonable time of receipt of said Request the third party shall not have obtained a court order protecting such records as confidential. The Port shall therefore produce the documents or comply with the court order, as appropriate.

F. Whenever documents are to be produced, the Port shall notify the requesting party of the time, place, estimated fees or charges, and method access.

G. The fees or charges shall be the amount reasonably calculated to reimburse the Port for its actual costs of searching, reviewing, duplicating, and mailing, if applicable, the Public Records requested. The cost for searching and reviewing records which may be subject to the Request, shall be based on the actual time expended at the rate of twenty dollars (\$ 20.00) per hour per person performing such work. Copies shall be made at the cost of twenty-five cents (\$ 0.25) per page for documents smaller than 11 by 17 inches. The cost of copying documents larger than 11 by 17 inches shall be at the actual reproduction costs plus the actual time of Port personnel to secure such copies. The estimated amount of all such costs shall be paid in advance of the Port's complying with the Request. If the actual costs differ from the estimate, any overpayment shall be refunded to or any additional costs paid by the requesting party. The Port may require an additional advance deposit calculated to cover the reasonable cost of searching and reviewing documents where such a search and review will require more than one hour. The Port shall have no duty to fulfill the Request until satisfactory fees and charges are received.

H. No Public Records of the Port shall be permitted to leave the custody and control of the Port

or its authorized employees or agents.

Source: Mississippi Code §§ 59-1-1, 59-1-9 and 59-5-21

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EE. If the Request seeks Protected Documents furnished to the Port by a third party, the Port shall notify in writing the requesting party and the third party who furnished the Protected Documents that such documents will be produced to the requesting party if within ~~fourteen (14) working days~~ a reasonable time of receipt of said Request the third party shall not have obtained a court order protecting such records as confidential. The Port shall therefore produce the documents or comply with the court order, as appropriate.

FF. Whenever documents are to be produced, the Port shall notify the requesting party of the time, place, estimated ~~cost~~ fees or charges, and method access.

EG. The ~~cost~~ fees or charges shall be the amount reasonably calculated to reimburse the Port for its actual costs of searching, reviewing, duplicating, and mailing, if applicable, the Public Records requested. The cost for searching and reviewing records which may be subject to the Request, shall be based on the actual time expended at the rate of ~~\$ 12.00~~ twenty dollars (\$ 20.00) per hour per person performing such work, ~~which includes overhead and fringe benefits~~. Copies shall be made at the cost of ~~25~~ twenty-five cents (\$ 0.25) per page for documents smaller than ~~8 1/2 by 14~~ 11 by 17 inches. The cost of copying documents larger than ~~8 1/2 by 14~~ 11 by 17 inches shall be at the actual reproduction costs plus the actual time of Port personnel to secure such copies. The estimated amount of all such costs shall be paid in advance of the Port's complying with the Request. If the actual costs differ from the estimate, any overpayment shall be refunded to or any additional costs paid by the requesting party. The Port may require an additional advance deposit calculated to cover the reasonable cost of searching and reviewing documents where such a search and review will require more than one hour. The Port shall have no duty to fulfill the Request until satisfactory fees and charges are received.

~~F. Documents which are to be produced, Requests which are denied in whole or in part, and notices to parties concerning Protected Documents, shall be given as soon as reasonably practical, but in no event later than fourteen (14) working days from the date of a Request.~~

~~G.H.~~ No Public Records of the Port shall be permitted to leave the custody and control of the Port or its authorized employees or agents.

Source: Mississippi Code §§ 59-1-1, 59-1-9 and 59-5-21