

NORTHAMPTON COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY OPEN RECORDS POLICY

Section 1 - Purpose

The purpose of this policy is to assure compliance with Act 3 of 2008, The Pennsylvania Right-to-Know Law, as amended; to provide access to public records of Northampton County Industrial Development Authority ("NCIDA"); to preserve the integrity of the NCIDA's records; and to minimize the financial impact to the residents of the county regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Section 2 - Designating Open Records Officer

It is the policy of the NCIDA to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplicating of public records of the NCIDA. The NCIDA Open Records Officers are as follows:

1. Open Records Officer- Alicia M. Karner, Executive Director
2. Assistant Open Records Officer- Corriere & Andres, LLC

These Officers are responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines.

- A. The Open Records Officer may designate certain employee(s) to process public record requests.
- B. The Open Records Officer is responsible for minimizing, where possible, the financial impact to the NCIDA regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Section 3 - Request for Open Records

- A. All requests for public records of the NCIDA under this policy shall be specific in identifying and describing each public record requested. In no case shall the NCIDA be required to create a public record which does not exist or to compile, maintain, format, or organize a public record in a manner which the NCIDA does not currently compile, maintain, format, or organize the public record. All requests for public records shall be submitted in writing and include the date of the request; requestor's name, address, and telephone number; certification if United States residency; signature of requestor; and if duplication is requested, appropriate

payment.

- i. An appropriate Open Records request form is attached hereto for easy use.
- B. The Open Record Officer or designee shall make a good faith effort to determine whether each record requested is a public record.
- C. The NCIDA shall facilitate a reasonable response to a request for the NCIDA's public records. In no case is the NCIDA expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the NCIDA's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.
- D. The NCIDA shall respond to the requester within five (5) business day from the date of receipt of the written request. If the NCIDA does not respond within five (5) business days of the receipt thereof, the request is deemed denied.
- E. The response provided by the NCIDA shall consist of: (1) approval for access to the public record; (2) a review of the request by a designated employee; or (3) a denial of access to the record requested.
- F. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the NCIDA. The designated employee shall cooperate fully with the requestor, while also taking reasonable measures to protect NCIDA public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.
- G. The NCIDA may fulfill verbal, written or anonymous verbal or written requests for access to records. However, if the requester wishes to pursue the relief and remedies provided for in the Act, the request for access to records must be a written request.
- H. A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists.

Section 4 - Fees

- A. Fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records. Currently, the NCIDA will charge a fee of \$0.25 per page. In the event of complex or extensive data sets, the fees for copying will be based on the reasonable market value of the same.
- B. The NCIDA will impose reasonable fees for official certification of copies if the certification is at the behest of the requester.
- C. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of the NCIDA resources.

Section 5 - Extended Responses

- A. If the request requires an extensive review by the Open Records Officer, the notice provided by the NCIDA shall be in writing and include the reason for the review and the expected response date, which shall be within thirty (30) days of the notice of review. If the NCIDA does not respond within thirty (30) days thereof, the request is deemed denied. Review of the request is limited to situations where:
 - i. The record requested contains information, which is subject to access, as well as information, which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
 - ii. The record required retrieval from a remote location;
 - iii. A timely response cannot be accomplished due to staffing limitations;
 - iv. A legal review is necessary to determine whether the record requested is a public record;
 - v. The requester has failed to comply with the NCIDA's policy and procedure requirements;
 - vi. The requester refuses to pay the applicable fees; or
 - vii. The extent or nature of the request precludes a response within the required time period.

Upon determination that one of the factors listed above applies, the NCIDA shall send a written notice to the requester within five (5) business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the

reason for the review, a reasonable date that a response is expected to be provided, and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed for, the request for access shall be deemed denied, unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the agency has not provided a response by that date.

Section 6 - Appeals

- A. If access to the record requested is denied, the notice provided by the NCIDA shall be in writing as indicated on the form attached hereto entitled "Denial of Request to Review and/or Duplicate NCIDA Records."
- B. If the request is denied or deemed denied, the requester may file an appeal with the Commonwealth's Office of Open Records within fifteen (15) business days, of the mailing date of the NCIDA's notice of denial, or within fifteen (15) business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the agency for delaying or denying the request.
- C. Within 30 days of the mailing date of the final determination of the appeals officer, the requester or NCIDA may file a petition for review or other documents as required by rule of court with the Court of Common Pleas for Northampton County Industrial Development Authority. The decision of the court shall contain findings of fact and conclusion of law based upon the evidence as a whole. A petition for review under this section shall stay the release of the documents until a decision is issued.

