

Title 6. Public Record Requests

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Section 1. Policy Statement. It is the policy of the Blaine County Housing Authority (“BCHA”) to make available to the public those records relating to the operation, organization, and activities of BCHA, in accordance with Idaho Code §§74-101, *et seq.* and as set forth in this Title.

Section 2. Definitions.

- A.** As used in this Chapter, the terms below shall have the meaning so prescribed:
1. “Copy” means the transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means so long as the public record is not altered or damaged.
 2. “Custodian” means the Executive Director or his or her designees.
 3. “Person” means any natural person, corporation, partnership, firm, association, joint venture, state, or local agency or any other recognized legal entity.
 4. “Public agency” means any state or local agency, including the Blaine County Housing Authority (“BCHA”).
 5. “Public official” means any state, county, local district, independent public body corporate and politic or governmental official or employee, whether elected, appointed, or hired.
 6. “Public record” includes, but is not limited to, any writing containing information relating to the conduct or administration of the public’s business prepared, owned, used or retained by BCHA regardless of physical form or characteristics.
 7. “Requestor” means the person requesting examination and/or copying of public records pursuant to §74-102, Idaho Code.
 8. “Writing” includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing, and every means of recording, including letters, words, pictures, sounds, or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.
- B.** Terms not defined in §§2(A)(1)-(8) shall have the meaning commonly associated with those terms as defined by law or a court of competent jurisdiction.

Section 3. Public Records

A. Right to Examine.

1. Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.
2. The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by Blaine County Housing Authority ("BCHA") or using equipment designated by the custodian.
3. Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.
4. BCHA requires that a request for public records be submitted to it in a writing that provides the requester's name, mailing address, e-mail address and telephone number. A request for public records and delivery of the public records may be made by electronic mail.
5. The custodian shall make no inquiry of any person who requests a public record, except:
 - (a) To verify the identity of the requester in accordance with section [74-113](#), Idaho Code; or
 - (b) To ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by section [74-120](#), Idaho Code, or as otherwise provided by law; or
 - (c) As required for purposes of protecting personal information from disclosure under [chapter 2, title 49](#), Idaho Code, and federal law.
6. The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.
7. Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.
8. Examination of public records under the authority of this section must be conducted during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by BCHA, out of funds provided in advance by the person examining such records, at other than regular office or working hours.
9. BCHA is not required to provide the requester information to help the requester narrow the scope of the request or to help the requester make

the request more specific when the response to the request is likely to be voluminous or require payment as provided in subsection (10) of this section.

10. Fees

- (a) Except for fees that are authorized or prescribed under other provisions of Idaho law, no fee shall be charged for the first two (2) hours of labor in responding to a request for public records, or for copying the first one hundred (100) pages of paper records that are requested.
- (b) BCHA shall establish fees to recover the actual labor and copying costs associated with locating and copying documents if:
 - i. The request is for more than one hundred (100) pages of paper records; or
 - ii. The request includes records from which nonpublic information must be deleted; or
 - iii. The actual labor associated with responding to requests for public records in compliance with the provisions of this chapter exceeds two (2) person hours.
- (c) BCHA may establish a copying fee schedule. The fee may not exceed the actual cost to BCHA of copying the record if another fee is not otherwise provided by law.
- (d) For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information, BCHA may charge a fee, uniform to all persons that does not exceed the sum of the following:
 - i. BCHA's direct cost of copying the information in that form;
 - ii. The standard cost, if any, for selling the same information in the form of a publication;
 - iii. BCHA's cost of conversion, or the cost of conversion charged by a third party, if the existing electronic record is converted to another electronic form.
- (e) Fees shall not exceed reasonable labor costs necessarily incurred in responding to a public records request. Fees, if charged, shall reflect the personnel and quantity of time that are reasonably necessary to process a request. Fees for labor costs shall be charged at the per hour pay rate of the lowest paid administrative staff employee who is necessary and qualified to process the request. If a request requires redactions to be made by an attorney, the rate shall be no more than the usual and customary rate of the attorney who is retained by BCHA for that purpose.
- (f) BCHA shall not charge any cost or fee for copies or labor when the requester demonstrates that the requester's examination and/or copying of public records:
 - i. Is likely to contribute significantly to the public's understanding of the operations or activities of the government;

- ii. Is not primarily in the individual interest of the requester including, but not limited to, the requester's interest in litigation in which the requester is or may become a party; and
 - iii. Will not occur if fees are charged because the requester has insufficient financial resources to pay such fees.
- (g) Statements of fees by BCHA shall be itemized to show the per page costs for copies, and hourly rates of employees and attorneys involved in responding to the request, and the actual time spent on the public records request. No lump sum costs shall be assigned to any public records request.
- 11. A requester may not file multiple requests for public records solely to avoid payment of fees. When BCHA reasonably believes that one (1) or more requesters is segregating a request into a series of requests to avoid payment of fees authorized pursuant to this section, BCHA may aggregate such requests and charge the appropriate fees. BCHA may consider the time period in which the requests have been made in its determination to aggregate the related requests. BCHA shall not aggregate multiple requests on unrelated subjects from one (1) requester.
- 12. BCHA requires advance payment of fees authorized by this section. Any money received by BCHA shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund. Any portion of an advance payment in excess of the actual costs of labor and copying incurred by BCHA in responding to the request shall be returned to the requester.
- 13. BCHA shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.
- 14. Nothing contained herein shall prevent BCHA from disclosing statistical information that is descriptive of an identifiable person or persons, unless prohibited by law.
- 15. Nothing contained herein shall prevent BCHA from providing a copy of a public record in electronic form if the record is available in electronic form and if the person specifically requests an electronic copy.

B. Response to Request for Examination of Public Records.

- 1. Blaine County Housing Authority ("BCHA") shall either grant or deny a person's request to examine or copy public records within three (3) working days of the date of the receipt of the request for examination or copying. If it is determined by BCHA that a longer period of time is needed to locate or retrieve the public records, BCHA shall so notify in writing the person requesting to examine or copy the records and shall provide the public records to the person no later than ten (10) working days following the person's request. Provided however, if it is determined the existing electronic record requested will first have to be converted to

another electronic format by BCHA or by a third party and that such conversion cannot be completed within ten (10) working days, BCHA shall so notify in writing the person requesting to examine or copy the records. BCHA shall provide the converted public record at a time mutually agreed upon between the agency and the requester, with due consideration given to any limitations that may exist due to the process of conversion or due to the use of a third party to make the conversion.

2. If BCHA fails to respond within ten (10) working days following the request, the request shall be deemed to be denied.
3. If BCHA denies the person's request for examination or copying the public records or denies in part and grants in part the person's request for examination and copying of the public records, the BCHA custodian or that person's designee shall notify the person in writing of the denial or partial denial of the request for the public record.
4. The notice of denial or partial denial shall state that the attorney for BCHA has reviewed the request or shall state that BCHA has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. The notice of denial or partial denial also shall indicate the statutory authority for the denial and indicate clearly the person's right to appeal the denial or partial denial and the time periods for doing so.)

Section 3. Exempt Records

A. The following records are exempt from disclosure:

1. Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.
2. Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.
3. Records of a personal nature as follows:
 - (a) Records of personal debt filed with Blaine County Housing Authority ("BCHA") pursuant to law;
 - (b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;
 - (c) Records of ownership of financial obligations and instruments BCHA, such as bonds, compiled by BCHA pursuant to law;
 - (d) Records, with regard to the ownership of, or security interests in, registered public obligations;
 - (e) Vital statistics records; and
 - (f) Military records as described in and pursuant to section 65-301, Idaho Code.
4. Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for people who are elderly, indigent or have mental or physical disabilities, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from

disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

5. Employment security information, except that a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the person is restricted by subsection (3)(a), (3)(b) or (3)(d) of section 74-113, Idaho Code. Notwithstanding the provisions of section 74-113, Idaho Code, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of confidentiality. As used in this section and in chapter 13, title 72, Idaho Code, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.
6. Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.
7. Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.
8. The records, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.
9. Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.
10. Records relating to the following:
 - (a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by BCHA;
 - (b) Records submitted to or otherwise obtained by BCHA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by BCHA of said loans;
 - (c) Mortgage portfolio loan documents;
 - (d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure

does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

11. The Idaho residential street address and telephone number of an eligible law enforcement officer and such officer's residing household member(s) as provided for in chapter 58, title 19, Idaho Code, except under the following circumstances:
 - (a) If directed by a court order, to a person identified in the court order;
 - (b) If requested by a law enforcement agency, to the law enforcement agency;
 - (c) If requested by a financial institution or title company for business purposes, to the requesting financial institution or title company; or
 - (d) If the law enforcement officer provides written permission for disclosure of such information.

B. Records Exempt from Disclosure — Trade Secrets, Production Records, Appraisals, Bids, Proprietary Information. The following records are exempt from disclosure:

1. Trade secrets including those contained in response to Blaine County Housing Authority ("BCHA") requests for proposal, requests for clarification, requests for information and similar requests. "Trade secrets" as used in this section means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in-progress research that:
 - (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
 - (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
2. Production records, housing production, rental and financing records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a private concern or

enterprise required by law to be submitted to or inspected by a public agency or submitted to or otherwise obtained by BCHA. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

3. Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by BCHA.
4. Any estimate prepared by BCHA that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project.
5. Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against BCHA and its employees or against the industrial special indemnity fund except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves, internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney-client privilege or attorney work product privilege otherwise available to BCHA.
6. Computer programs developed or purchased by or for BCHA for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:
 - (a) The original data including, but not limited to, numbers, text, voice, graphics and images;
 - (b) Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
 - (c) The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.
7. For policies that are owned by private persons, and not by BCHA, records of policies, endorsements, affidavits and any records that discuss policies, endorsements and affidavits that may be required to be filed with or by a surplus line association pursuant to [chapter 12, title 41](#), Idaho Code.

C. Exempt and Nonexempt Public Records to Be Separated. If any public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, Blaine County Housing Authority shall, upon receipt of a request for disclosure, separate the exempt and nonexempt material and make

the nonexempt material available for examination, provided that a denial of a request to copy nonexempt material in a public record shall not be based upon the fact that such nonexempt material is contained in the same public record as the exempt material.

Section 4. Access to Records about a Person by that Person

- A. A person may inspect and copy the records of Blaine County Housing Authority ("BCHA") pertaining to that person, even if the record is otherwise exempt from public disclosure.
- B. A person may request in writing an amendment of any record pertaining to that person. Within ten (10) days of the receipt of the request, BCHA shall either:
 - 1. Make any correction of any portion of the record which the person establishes is not accurate, relevant, or complete; or
 - 2. Inform the person in writing of the refusal to amend in accordance with the request and the reasons for the refusal, and indicate clearly the person's right to appeal the refusal and the time period for doing so. The procedures for appealing a refusal to amend shall be the same as those set forth in sections 74-115 and 74-116, Idaho Code, and the court may award reasonable costs and attorney's fees to the prevailing party or parties, if it finds that the request for amendment or refusal to amend was frivolously pursued.
- C. The right to inspect and amend records pertaining to oneself does not include the right to review:
 - 1. Otherwise exempt investigatory records of BCHA if the investigation is ongoing;
 - 2. Information that is compiled in reasonable anticipation of a civil action or proceeding which is not otherwise discoverable;
 - 3. The information relates to adoption records;
 - 4. Information which is otherwise exempt from disclosure by statute or court rule.

Section 5. Severability. This Public Records Policy adopted by the Board of the Blaine County Housing Authority, (Resolution 2017-06, November 27, 2015), shall govern the disclosure all records within BCHAs care and custody. This policy is severable and if any provision or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction or is superseded by any action or law of the State of Idaho, whether in expanding or restricting its application, such declaration(s) shall not affect the validity of the remaining portions of this policy.