

Public Records and Requests for Confidential Treatment

The Lead Agency will treat all information submitted by a Contractor as public information unless the Contractor properly requests that specific parts of the Bid Proposal be treated as confidential at the time of submitting the Bid Proposal. The Lead Agency's release of information is governed by Iowa Code chapter 22. Contractors are encouraged to familiarize themselves with chapter 22 before submitting a Bid Proposal. The Lead Agency will copy public records as required to comply with the public records laws.

Any request for confidential treatment of specific information must be included in the transmittal letter with the Contractor's Bid Proposal. In addition, the Contractor must enumerate the specific grounds in Iowa Code Chapter 22 or other applicable law which support treatment of the material as confidential and explain why disclosure is not in the best interest of the public. Pricing information cannot be considered confidential information. The request for confidential treatment of information must also include the name, address, and telephone number of the person authorized by the Contractor to respond to any inquiries by the Lead Agency concerning the confidential status of the materials.

Any Bid Proposal submitted which contains specific confidential information must be conspicuously marked on the outside as containing confidential information, and each page upon which confidential information appears must be conspicuously marked as containing confidential information. **Failure to properly identify specific confidential information shall relieve Lead Agency or State personnel from any responsibility if confidential information is viewed by the public, a competitor, or is in any way accidentally released. Identification of the entire Bid Proposal as confidential may be deemed non-responsive and disqualify the Contractor.**

If the Contractor designates any portion of the RFP as confidential, the Contractor must submit one copy of the Bid Proposal plus one on CD both marked "Public Copy" from which the confidential information has been excised. This excised copy is in addition to the number of copies requested in section 3 of this RFP. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Bid Proposal as possible.

If Lead Agency receives a request for information marked confidential, written notice shall be given to the Contractor seven calendar days prior to the release of the information to allow the Contractor to seek injunctive relief pursuant to *Section 22.8 of the Iowa Code*.

The Lead Agency will disclose the information marked confidential upon request unless a court of competent jurisdiction determines the information is confidential under *Iowa Code Chapter 22* or other applicable law.

The Contractor's failure to request confidential treatment of material will be deemed by the Lead Agency as a waiver of any right to confidentiality the Contractor may have had.

22.8 INJUNCTION TO RESTRAIN EXAMINATION.

1. The district court may grant an injunction restraining the examination, including copying, of a specific public record or a narrowly drawn class of public records. A hearing shall be held on a request for injunction upon reasonable notice as determined by the court to persons requesting access to the record which is the subject of the request for injunction. It shall be the duty of the lawful custodian and any other person seeking an injunction to ensure compliance with the notice requirement. Such an injunction may be issued only if the petition supported by affidavit shows and if the court finds both of the following:

- a. That the examination would clearly not be in the public interest.
- b. That the examination would substantially and irreparably injure any person or persons.

2. An injunction shall be subject to the rules of civil procedure except that the court in its discretion may waive bond.

3. In actions brought under this section the district court shall take into account the policy of this chapter that free and open examination of public records is generally in the public interest even though such examination may cause inconvenience or embarrassment to public officials or others. A court may issue an injunction restraining examination of a public record or a narrowly drawn class of such records, only if the person seeking the injunction demonstrates by clear and convincing evidence that this section authorizes its issuance. An injunction restraining the examination of a narrowly drawn class of public records may be issued only if such an injunction would be justified under this section for every member within the class of records involved if each of those members were considered separately.

4. Good-faith, reasonable delay by a lawful custodian in permitting the examination and copying of a government record is not a violation of this chapter if the purpose of the delay is any of the following:

- a. To seek an injunction under this section.
- b. To determine whether the lawful custodian is entitled to seek such an injunction or should seek such an injunction.

- c. To determine whether the government record in question is a public record, or confidential record.

- d. To determine whether a confidential record should be available for inspection and copying to the person requesting the right to do so. A reasonable delay for this purpose shall not exceed twenty calendar days and ordinarily should not exceed ten business days.

- e. Actions for injunctions under this section may be brought by the lawful custodian of a government record, or by another government body or person who would be aggrieved or adversely affected by the examination or copying of such a record.

- f. The rights and remedies provided by this section are in addition to any rights and remedies provided by section 17A.19.