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Don Brown, Commissioner
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Organizational Policy & Procedures

Title: **CDA's Colorado Open Records Act (CORA) Policy**

Category: Commissioner's Office

Replaces: "CDA's Colorado Open Records Act (CORA) Policy" number COM-002 issued August 30, 2013.

Approved: Chris Wiseman
Chris Wiseman, Deputy Commissioner

Number: **COM-002**

Issued: **July 8, 2016**

I. AUTHORITY AND PURPOSE

A. **Legal Authority:** The authority for this policy is the Colorado Open Records Act §§ 24-72-201 through 206 C.R.S. This policy specifies how CORA will be applied in a uniform and reliable manner.

B. **Purpose:** The Colorado Department of Agriculture (CDA or Department) is committed to transparency and open Government. The purpose of this policy is help ensure that CDA complies in all respects with CORA and meets all of its constitutional and statutory duties to the People of Colorado in an orderly and expeditious manner. This policy is not intended to be duplicative of CORA or supersede state law.

C. **Scope:** This policy shall apply to all employees within CDA. This policy applies solely to records request where the Department is the custodian of records pursuant to CORA. It does not require gathering of information from sources outside of the Department or the creation or specific formatting of data, documents, or information that does not exist.

D. **Attachment(s):** None

II. GENERAL INFORMATION

A. While CORA clearly specifies the nature of documents subject to public inspections and sets forth timetables for compliance with valid open records requests, it is in the best interest of the department that such requests be handled in a substantially uniform fashion. Furthermore, in certain instances, it is necessary that the Commissioner be aware that a request has been filed.

B. CDA is committed to complying with CORA; therefore, in accordance with the Department's common standard of customer service, CDA will provide access to all requested public records in a timely fashion.

III. POLICY

A. The Department shall accept only written records requests.

B. All records requests made of CDA shall be immediately provided to the appropriate Division Director, with the exception of requests from the media.

C. The division will respond to all CORA requests and will notify the Commissioner's Office through the Communications Director when appropriate.

D. CORA requests from the media shall be immediately provided to the Director of Communications and the appropriate Division Director. The Director of Communications will coordinate the response.

E. Records requests or requestors that cite the federal Freedom of Information Act shall be treated as though they were made pursuant to CORA.

F. Department staff should never assume a record is exempt from CORA and should always consult the Division Director before making a final determination.

G. The Department shall charge for all copying expenses and reasonable costs if the request requires the production of more than 25 pages of documents or the use of more than one hour of staff time to locate or produce records.

IV. GUIDELINES/PROCEDURES

A. Handling Records Requests:

1. Records requests made of CDA employees shall be immediately provided to the appropriate Division Director.

2. Records requests made of CDA employees from the media shall be immediately provided to the Director of Communications in the Commissioner's Office, as well as the appropriate Division Director. The Director of Communications will coordinate the response.

3. In the interest of efficiency the Department may contact the requesting party to clarify any CORA requests that appear to be vague or overly encompassing. The Department should attempt to help the party narrow their request if possible.

4. Never assume a record is exempt from CORA. Consult with the Division Director before making a final determination.

5. No employee of the Department shall modify, redact or omit any records they are required to provide except as authorized by law.

6. When responding to a records request, the Department shall make every effort to respond within three working days as required by § 24-72-203(3)(b) C.R.S. The three-day response time starts on the first working day following receipt of the request by CDA employees.

7. The Department can add up to a seven-working-day extension if extenuating circumstances apply as defined in § 24-72-203(3)(b).

8. When feasible, the Department will provide electronic copies or files to requestors when it's less burdensome to the Department than paper formats. (see "The format of records produced").
    a. When responsive records cannot be easily or cost effectively provided electronically to a requestor, the Department shall work with the requestor to schedule a time to inspect the records in person.
    b. The Department's business hours are 8 a.m. to 5 p.m. Monday through Friday, excluding holidays.

B. Fees for Release of Records:

1. When a substantial request is made – requiring the production of more than 25 pages of documents or the use of more than one hour of staff time to comply with the request – the Department shall charge the requestor for all copying expenses and reasonable costs associated with staff time pursuant to § 24-72-205(5)(a) and (6)(a) C.R.S.
    a. When the number of pages produced pursuant to CORA exceeds 25 pages, the Department shall charge $0.25 per page for all documents copied.
    b. Files provided electronically on a CD will be billed at $2.50 per CD.
    c. When producing records consumes more than one hour of staff time, the Department shall charge $30 an hour per person for all time associated with complying with the request.
    d. When fees are anticipated, the Department shall provide a requestor with advance notice and an estimate of compliance costs.
    e. All costs shall be paid in full before the production of records unless alternative arrangements have been made.
    f. Any requestor who does respond to the Department's estimate of fees or requests for clarification within 14 calendar days from the date the estimate or request is sent to the requestor will have abandoned the request and must re-submit a new request and receive a new estimate for the expense.

2. If the Commissioner's Office determines that the requesting party is abusing the 25 page waiver by submitting repeated open records requests the Commissioner's Office may suspend the 25 page or less waiver to that individual or organization.

C. The Format of Records Produced:

1. CORA guarantees that "all public records shall be open for inspection by any person at reasonable times, except as provided herein or as otherwise specifically provided by law" (§ 24-72-201, C.R.S).

a. The Colorado Open Records Act does not guarantee access to the documents in a specific format. When the production or review of records in a specific format would interfere with the regular discharge of duties of Department employees (§ 24-72-203(1)(a) C.R.S.) or levy an undue burden upon the Department, the Division Director shall determine the appropriate format for the records to be produced.
b. Records maintained electronically may be produced electronically at the Department's discretion; this may or may not mean records are provided in their native format.

2. CDA may require that members of the public or media be allowed to review only copies of documents when the custodian of records determines that allowing access to originals could interfere with the regular discharge of duties of the Department or its staff or production of original records could jeopardize the condition of the records.

3. CORA does not require gathering of information from sources outside of the Department or the creation or specific formatting of data, documents, or information that does not exist.

V. EFFECTIVE DATE

This policy will become effective upon signature by the Commissioner or Deputy Commissioner and is effective until revised, superseded, or revoked.

VI. ENFORCEMENT

Violation of this policy may result in corrective or disciplinary action.