



SOUTH CAROLINA DEPARTMENT OF AGRICULTURE

NEWS MEDIA CONTACTS AND FOIA REQUEST POLICY AND PROCEDURE

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I. POLICY STATEMENT

The South Carolina Department of Agriculture (SCDA) plays a key role in central state government and is often critically involved in a wide range of issues that face the state. It is critical to the SCDA's mission that the news media and public receive timely and accurate information about the activities of SCDA. The responsibility for providing information to the news media and public rests with the Office of the Commissioner and those individuals within the offices who are so designated.

This policy applies to you in your official capacity as an employee of South Carolina Department of Agriculture. This policy does not prohibit an employee from exercising his or her freedom of speech as a private citizen on matters of public concern.

Employees of SCDA are instructed to use extreme care to avoid disclosing any confidential or nonpublic information.

II. NEWS MEDIA CONTACTS

A. General Procedures

Employees of SCDA should refer the news media to the Public Information Director in the Office of the Commissioner.

It is the responsibility of the Public Information Director, in conjunction with the Office of the Commissioner and the Division Assistant Commissioners, to determine who will provide information directly to the news media on individual issues.

The Division's Assistant Commissioners will be notified of non-routine requests for information from their offices/divisions; requests which are non-controversial will be handled routinely as determined by the parties involved.

If the Public Information Director is unavailable, employees should refer the news media to their Division's Assistant Commissioner and/or the Office of the Commissioner. If contact with the news media is unavoidable, employees should immediately report such contact to their supervisor and their Division's Assistant Commissioner. The Public Information Director should also be notified as soon as possible.

Employees should respond to requests from the Public Information Director for information and/or access to SCDA offices in a reasonable time frame.

B. Interviews

All employee interviews with the news media should be arranged through the Public Information Director. This includes both print and broadcast media interviews via telephone or in person.

Interviews of a personal nature (i.e., not related to job function or employee responsibilities) should not be conducted in any SCDA office/building at any time unless specific, prior permission has been granted by the Public Information Director and/or Office of the Commissioner.

Exceptions:

Occasionally, executive staff or a designee will be in a position to talk directly with the news media. Executive staff is defined as one of the following: Commissioner and Division Assistant Commissioner. The Division's Assistant Commissioners may also designate other managers to speak on the division's behalf.

Executive staff should carefully consider the appropriateness of such direct contacts with the news media, bearing in mind that these discretionary decisions will vary from issue to issue. Sensitive matters affecting SCDA and its offices should always be referred to the Public Information Director and/or the Office of the Commissioner.

After contact with the news media, the Division's Assistant Commissioner and/or executive staff should notify the Public Information Director immediately as to the subject matter and details thereof.

III. FREEDOM OF INFORMATION ACT (FOIA) REQUEST

A. General Procedures

All FOIA requests shall be answered in accordance with the Freedom of Information Act (FOIA), including but not limited to time frames, definitions of releasable information, and exemptions. Matters not subject to disclosure under the FOIA will not be released without prior approval. See Sections 30-4-10 et seq. of the South Carolina Code of Laws (1976) as amended.

On matters which are questionable as to disclosure, legal counsel and/or the advice of the Public Information Director should be sought prior to releasing records under the FOIA.

Non-SCDA employees shall not be allowed unsupervised access to SCDA premises or record files unless approved by the Office of the Commissioner, Division's Assistant Commissioner, and/or designated staff.

Prior to the release of applicable records or information, it is standard practice for the South Carolina Department of Agriculture to inform constitutional officers, members and staff of the General Assembly, other local state or federal agencies, and SCDA employees that a FOIA request concerning them has been submitted. This action should in no way be construed as circumvention of the FOIA or compromising SCDA's intention to disclose information which is releasable under the FOIA.

B. FOIA Requests from News Media

News media requests under FOIA should be referred to the Public Information Director in the Office of the Commissioner. It is the responsibility of the Public Information Director, in conjunction with the Office of the Commissioner and Division's Assistant Commissioners, to determine who will provide FOIA information directly to the news media. FOIA requests and responses must be in writing. A cover letter or message should be part of the FOIA response.

If appropriate, the Public Information Director will request assistance from relevant program and administrative managers. This includes but is not limited to researching files, pulling archived materials, copying information, developing a computer program or running an existing computer program, making records available for review, and allowing file access to reporters.

It is the policy of SCDA to answer all FOIA requests in a timely manner. Requests should be handled in the course of regular office business, providing a response no later than the 15 business days provided for in the act, or earlier if possible.

When requests involve a large amount of information, requestors should be given options for receiving the data. This could include allowing the requestor the opportunity to review disclosable records at our offices rather than receiving hard or electronic copies if this will be more convenient for both parties. This step should be taken before SCDA staff begins assembling the data. While records are under review, staff should remain with the individual making the FOIA request.

If information requested under the FOIA is determined to be non-releasable, SCDA shall provide written notification of that determination and the reasons thereof within the time requirements of the FOIA (i.e., 15 business days, excluding Saturdays, Sundays, and legal holidays). This should be reviewed and approved by the office of Commissioner.

In the event of an unavoidable delay in providing releasable information, the Public Information Director shall provide written approval of the FOIA request within the time requirements of the FOIA (i.e., 15 business days, excluding Saturdays, Sundays, and legal holidays) and shall forward the requested information immediately upon its availability.

All FOIA requests from the news media should be date stamped upon their receipt; if the FOIA request is received initially at a SCDA office, it should be date stamped at that location and immediately redirected to the Office of the Commissioner where it will be date stamped also.

FOIA responses may be in paper or electronic format. If the request is made electronically, written responses may be issued in the same format by attaching a PDF or other comparable medium. Hard copies of all requests and responses must be kept indefinitely.

No SCDA office, program or SCDA employee acting in their official capacity should submit a Freedom of Information Act request to another governmental entity without prior approval of the Office of Commissioner.

The following text should be included in all responses to FOIA requests:

“Section 30-2-50 of the Code of Laws of the State of South Carolina provides that no person or private entity shall knowingly obtain or use any personal information obtained from a public body for any commercial solicitation directed to a person in this State. Any person who knowingly uses public records for commercial solicitation is guilty of a misdemeanor and, upon conviction, must be fined an amount not to exceed five hundred dollars or imprisoned for a term not to exceed one year, or both. Please see S.C. Code of Laws Section 30-2-10, et. seq. for full text of Family Privacy Protection Act.”

C. FOIA Requests from Non-News Media

FOIA requests originating with non-news media (i.e., vendors, attorneys, businesses, organizations, general public, etc.) which concern non-sensitive issues should be answered by the office to which it is directed or is applicable. Responses must be approved by the Public Information Director.

In so far as it is applicable, procedures for FOIA requests from non-news media should be identical to the FOIA procedures regarding the news media. FOIA requests originating from non-news media which concern sensitive matters or issues of interest to SCDA members and/or the Office of Commissioner should be directed to the Public Information Director immediately.

D. Disclosure of Applicant Information

1. Introduction

In accordance with the South Carolina's Freedom of Information Act ("FOIA"), S. C. Code § 30-4-10 et. seq. as amended, public bodies must make available to a requestor under the FOIA the total number of applicants who applied for a specific employment position. In addition, public bodies must disclose all materials gathered during the employment search for not fewer than the final three applicants under consideration for any type of position.

2. Collection of Applicant Information

The following steps are to facilitate the processing of a FOIA request before it is received:

a. Creation of a Centralized Office to Process FOIA Requests

SCDA Human Resources is designated as the centralized office to process FOIA requests concerning applicant information. SCDA Human Resources is the designated custodian which will store all of this applicant information. SCDA Human Resources will receive all FOIA requests for applicant information within the agency and be responsible for all correspondence to and from the agency regarding those FOIA requests.

b. Determining the Total Number of Applicants for a Position

SCDA Human Resources shall maintain a current count of the number of applications that are accepted for an open position. Once the position is filled or applications are no longer being accepted for that position, the applications shall be grouped together, with the total number of applications accepted displayed clearly on an applicant log and maintained in the file folder in which the applications are kept.

c. Standard Materials to Gather Concerning an Applicant

The following is a list of materials that generally should be gathered for an applicant: application/resume, reference checks, and confirmation of salary for a State employee. Standardized information that must become part of the applicant's file shall be determined by the nature of the position.

d. Materials that May Be Gathered concerning an Applicant

The following is a list of some materials to gather, dependent upon the specific position being filled: criminal background checks, credit checks, school transcripts, driver's license records, drug tests (including mandatory CDL drug testing), medical examinations, certification or licensing verifications, proficiency test scores (e.g., word processing and typing tests), writing samples, and interview notes.

e. Determining Not Fewer than the Final Three Applicants for a Position

Once all applications have been gathered for a position and all interviews have been completed, the hiring authority must identify not fewer than the final three applicants for the position and notify SCDA Human Resources on the Applicant Log form as to that identification.

3. FOIA Request for Applicant Information

The following steps are to facilitate the processing of an FOIA request once it is received.

a. Requiring a Written Request for Information

SCDA Human Resources will require all requests for information concerning applicants to be in writing.

b. Providing a Written Response to the Request

When SCDA Human Resources receives a written request under the FOIA for information concerning an applicant, the SCDA's Human Resources will respond in writing to the request within fifteen days (excepting Saturdays, Sundays and legal public holidays). Information in the response should include a summary of any information that will be provided under the request, a summary of any information that will not be disclosed and the reasons therefore, an estimate of the fees that will be charged, and any deposit, if necessary, to be made by the requestor.

c. Assembling Information to Respond to the Request

SCDA Human Resources will assemble all materials, regardless of their form or location, that were gathered in the search to fill the employment position.

d. Determining Which Information to Disclose

SCDA Human Resources will determine which information to disclose under the FOIA request. The applicant's social security number, medical records, and tax information are exempt from disclosure by the FOIA. Each FOIA request will be examined on a case-by-case basis for determining which information will be disclosed or not disclosed under the Freedom of Information Act. In determining what information to disclose under §30-4-40(a)(2) of the FOIA, SCDA Human Resources should weigh the privacy interests of the applicant against the public's interest in disclosure. Depending on the specific situation, the following information should be evaluated to determine whether its disclosure would constitute an unreasonable invasion of personal privacy under § 30-4-40(a)(2): drug test results, unlisted phone numbers, salaries, criminal convictions, Family Independence Act (FIA) information, reasons for job terminations, credit check information, criminal background check information, reference letters, disability status, and driver's license numbers and records. Prior to the release of any information under this Policy, the legal counsel for SC Department of Agriculture will be consulted.

e. Charges for FOIA Requests

FOIA requests should be answered without charge when the request will benefit the public interest and requires minimal and/or a reasonable amount of employee time and photocopying expense.

For requests which require substantial employee time for searching and/or photocopying, etc., a reasonable charge may be assessed the person or organization requesting the information. FOIA requests which involve computer programs/runs will also be assessed a reasonable charge.

South Carolina Department of Agriculture (SCDA) will evaluate each public records request and attempt to provide the information at no cost to the requestor by absorbing the cost. If it is determined that the agency must allocate a

significant amount of staff time and/or resources to a request, or multiple requests over a short time period, from an individual or organization, estimated fees will be assessed as outlined below.

Guidelines for determining what is reasonable are established for all SCDA offices as follows:

Photocopying- If the request requires copying approximately 25 pages or more, the charges would be calculated at 20 cents per page for black and white copies or 80 cents per page for color pages.

Employee/Administrative Time- Information requests requiring more than one hour of staff time will be assessed at \$37.00 per hour.

Postage or Fax- If more than 25 pages must be mailed or faxed, actual costs associated with the process will be assessed.

Computer/ Information Technology- Charges will be based on costs associated with the process. For the use of a CD, DVD or memory stick, there will be a \$5 charge.

Estimation of fees and payment- If it is determined that charges will be assessed for fulfilling an information request, the requestor will be notified. Actual costs will be recorded throughout the process, and will be reconciled with the requestor upon completion. 75% of the total fee amount must be received by SCDA at the address below prior to collection of information and/or fulfillment of the request.

South Carolina Department of Agriculture

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