



## EXECUTIVE ORDER NO. 734

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### PROMOTING TRANSPARENCY IN STATE GOVERNMENT THROUGH ENHANCED ACCESSIBILITY TO PUBLIC RECORDS

**WHEREAS** Founding Father John Adams once wrote that “liberty cannot be preserved without a general knowledge among the people”;

**WHEREAS**, to this end, the Alabama Legislature has codified a right “of every citizen” to obtain “any public writing of this state, except as otherwise expressly provided by statute”;

**WHEREAS**, recognizing the sensitivity of many kinds of information, the Alabama Legislature has enacted (at last count) over 250 express provisions establishing exemptions from disclosure under Alabama’s public-records law;

**WHEREAS** the Alabama Constitution, decisions of the Alabama Supreme Court, state-agency administrative rules, rules of court, and federal law may also limit what records state executive-branch agencies may disclose;

**WHEREAS** the Alabama Supreme Court has also recognized that disclosure of government records must always be balanced against the need for government business to be conducted “efficiently and without undue interference”;

**WHEREAS** improvements can be made to reduce and standardize agency response times in processing public-records requests without sacrificing agencies’ ability to effectively and efficiently fulfill their essential functions;

**WHEREAS** improvements can also be made to reduce and standardize the fees citizens must pay to obtain public records; and

**WHEREAS** improvements can also be made to enhance citizens’ ability to easily request public records from state executive-branch agencies;

**NOW, THEREFORE**, I, Kay Ivey, Governor of the State of Alabama, by virtue of the authority vested in me by the Constitution and laws of the State of Alabama, do hereby promulgate this executive order to streamline and

improve public-records policies within the executive branch of state government.

1. **General policy.** It is the policy of the executive branch of the State of Alabama to promptly provide citizens with public records upon request, subject to their payment of reasonable fees, to applicable laws protecting sensitive information, and to the interest of the general public in having the business of government carried on efficiently and without undue interference.
2. **Definitions.** For purposes of this order, the following terms shall have the following meanings.
  - a. **Standard request.** A public-records request that seeks one or more specifically and discretely identified public records that the agency determines would take **less than eight hours** of staff time to process considering the time needed to identify and retrieve any responsive records and to redact or take other measures to withhold legally protected information. A standard request should require no or minimal clarification by the requester.
  - b. **Time-intensive request.** A public-records request that the agency determines would take **more than eight hours** of staff time to process considering the time needed to identify and retrieve any responsive records—including because the request is vague or overly broad—and any time needed to redact or take other measures to withhold legally protected information.
3. **Improved response times.** Within 90 days of the issuance of this order, each state executive-branch agency shall revise its public-records policies—including, if necessary, by giving notice of its intention to adopt or amend administrative rules—to improve public-records response times and handling procedures as set forth below. An explanatory chart is included in Attachment A (“Summary of Response Times”).
  - a. **Standard requests.** An agency shall respond to standard requests as follows.

- i. **Form optional.** The agency may, but need not, require the requester to submit a form substantially similar to the form included in Attachment B (“Model Content for Agency Public-Records Webpage”).
  - ii. **Fees optional.** The agency may, but need not, require the requester to pay a reasonable fee before providing a substantive response to the requester. If the agency elects to charge a fee, it shall notify the requester of the fee and withhold the record until receipt of payment. The requester may opt not to pay the fee and thus not receive any substantive response.
  - iii. **Response time.** The agency shall acknowledge the request within two business days of receiving it and shall be prepared to provide a substantive response fulfilling or denying the request within 15 business days of acknowledging receipt. Although the agency may extend this period in 15-business-day increments upon written notice to the requester, the agency should process a standard request as expeditiously as possible in light of the requester’s time constraints, the agency’s workload, and the nature of the request.
- b. **Time-intensive requests.** An agency shall respond to time-intensive requests as follows.
- i. **Form required.** The agency shall require the requester to submit a form substantially similar to the form included in Attachment B (“Model Content for Agency Public-Records Webpage”).
  - ii. **Fees required.** The agency shall require the requester to pay a reasonable fee before providing a substantive response to the requester. The agency shall notify the requester in advance of any likely fees and shall withhold any substantive response until receipt of payment.
  - iii. **Response time.** The agency shall acknowledge the request within two business days of receiving it and shall notify the

requester within 15 business days after the acknowledgment that the request qualifies as a time-intensive request. At that time, the agency shall notify the requester of any likely fees and allow the requester to withdraw the time-intensive request and submit a new request that is not a time-intensive request. If the requester elects to proceed with his or her time-intensive request, the agency shall be prepared to provide a substantive response fulfilling or denying the request within 45 business days after the requester elected to proceed with his or her time-intensive request. The agency may extend this 45-business-day period in 45-business-day increments by notifying the requester in writing.

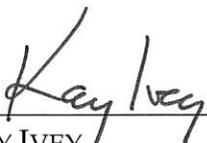
4. **Reduced fees.** Within 90 days of the issuance of this order, each state executive-branch agency shall revise its public-records policies—including, if necessary, by giving notice of its intention to adopt or amend administrative rules—to ensure that it charges no more than the following reasonable fees for responding to public-records requests.
  - a. **Document retrieval and preparation.** The agency may charge the requester up to \$20.00 per hour, including a standard, minimum fee of \$20.00, for time spent locating, retrieving, and preparing records for production. The agency may not charge for legal review or redaction necessary to withhold legally protected information.
  - b. **Per-page fees.** The agency may charge a per-page fee of up to \$.50 for copies produced on standard 8.5x11 paper. The agency may not charge a per-page fee for documents provided electronically.
  - c. **Actual costs.** Notwithstanding the foregoing, the agency may charge any actual costs incurred while processing or responding to a public-records request—for example, for a flash drive or other hardware necessary for electronically producing records, for special paper sizes, and for costs associated with searching electronic databases—if the requester is informed of the cost in advance of being charged.

5. **Enhanced accessibility.** Each state executive-branch agency shall improve access to the agency's public-records request process as follows.
  - a. **Agency public-records coordinator.** Within 90 days of the issuance of this order, each state executive-branch agency shall identify an employee to serve as the agency's public-records coordinator.
    - i. **Duties.** The public-records coordinator shall be the lead agency employee responsible for coordinating agency responses to public-records requests as set forth in this order.
    - ii. **Email accessibility.** The agency shall establish an email address for the public-records coordinator substantially in the form: public.records@[agency domain name]. The public-records coordinator shall monitor this email address and respond as set forth in this order.
  - b. **Agency public-records webpage.** Within 90 days of the issuance of this order, each state executive-branch agency shall establish an agency public-records webpage.
    - i. **Content.** The content shall substantially conform to the model content provided in Attachment B ("Model Content for Agency Public-Records Webpage").
    - ii. **Accessibility.** The public-records webpage shall be accessible through a link, included on the homepage of agency's official website, entitled "Public Records."
6. **Continued protection of nonpublic information.** This order is not intended to, and does not, change or in any way affect any protections for sensitive or other nonpublic information under applicable law.
7. **Applicability.** For purposes of this order, "state executive-branch agency" means any agency, department, board, office, commission, or other entity within the executive branch of state government.

8. **Implementation.** This order shall be implemented to the maximum extent possible consistent with applicable law and subject to the availability of appropriations. Any provision of paragraph 3 may be waived by an agency to the limited extent that compliance with it would result in an agency's processing of a public-records request being more expensive or less prompt from the perspective of the requester. Nothing in this order shall be construed as impairing or otherwise affecting the authority granted by law to an executive branch agency, or the head thereof, including the Governor of the State of Alabama, except to the extent expressly set forth in this order.
9. **No private right of action.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any private party against the State of Alabama, its departments, agencies, or entities, its officers, employees, or agents, or any other person.
10. **Effect on prior related orders.** Any previously issued executive order is hereby rescinded to the extent it conflicts with this executive order.

DONE AND ORDERED this 26th day of January 2023.



  
KAY IVEY  
Governor

ATTESTED



WES ALLEN  
Secretary of State

**EXECUTIVE ORDER NO. 734**

ATTACHMENT A: SUMMARY OF RESPONSE TIMES

	<b>What is it?</b>	<b>Is a request form required? Are fees required?</b>	<b>When will the agency respond?</b>
<b>Standard request</b>	<ul style="list-style-type: none"> <li>▪ Seeks one or more clearly identified documents.</li> <li>▪ The agency determines it would take <b>less than 8 hours</b> of staff time to process, including redaction of legally protected information.</li> <li>▪ A standard request should require no or minimal clarification by the requester.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The agency may choose whether to require a request form.</li> <li>▪ The agency may choose whether to charge a fee.</li> <li>▪ If the agency charges the fee, it must notify the requester in advance and receive the fees before providing the documents.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The agency will acknowledge receipt within 2 business days.</li> <li>▪ The agency will be ready to provide a substantive response 15 business days later.</li> <li>▪ The agency may extend this time in 15-business-day increments by giving written notice to the requester.</li> </ul>
<b>Time-intensive request</b>	<ul style="list-style-type: none"> <li>▪ The agency determines it would take <b>more than 8 hours</b> of staff time to process, including redaction of legally protected information.</li> </ul>	<ul style="list-style-type: none"> <li>▪ A request form is required.</li> <li>▪ Fees are required.</li> <li>▪ The agency must notify the requester in advance of likely fees associated with the request.</li> <li>▪ Before providing a substantive response, the agency must notify the requester and receive payment from the requester.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The agency will acknowledge receipt within 2 business days.</li> <li>▪ Within 15 business days later, the agency will allow the requester to submit a new request.</li> <li>▪ Within 45 business days later, the agency will be ready to provide a substantive response.</li> <li>▪ The agency may extend in 45-business-day increments by giving written notice to the requester.</li> </ul>

**Attachment B: Model Content for Agency Public-Records Webpage  
(EO No. 734, ¶ 5.b)**

**Our public-records policy**

It is the policy of the executive branch of the State of Alabama to promptly provide citizens with public records upon request, subject to their payment of reasonable fees, to applicable laws protecting sensitive information, and to the interest of the general public in having the business of government carried on efficiently and without undue interference.

**Submitting a public-records request**

You may submit a public-records request by completing a public-records request form, which is available here: *[insert link to PDF form, web-based form, or copy and paste instructions based on the form as set forth below]*

*[If not using a web-based form:]* You may submit the request by emailing it to *[insert link to agency public-records coordinator email address]*.

**What to expect**

We strive to respond as promptly as possible to all public-records requests we receive consistent with the demands of our agency's functions as determined by state law.

The nature of your request will dictate how promptly we respond. If your request very clearly identifies a specific, discrete document you are looking for, we will respond more quickly than if your request requires substantial staff time to process. A request will require substantial staff time to process if it requires difficulty in identifying and retrieving documents or taking measures to redact or otherwise withhold legally protected information.

In addition, we are permitted by state law to charge reasonable fees in connection with processing public-records requests. We will notify you in advance of the fees you likely will incur as a result of your request.

**Questions?**

You may contact our agency's public-records coordinator at *[insert link to agency public-records coordinator email address]*.

