



STATE OF DELAWARE
 DEPARTMENT OF TECHNOLOGY AND INFORMATION
 801 Silver Lake Blvd.
 Dover, Delaware 19904

Doc Ref Number:	DTI-0054.03	Revision Number:	3
Document Type:	Internal Policy	Page:	1 of 6
Policy Title:	FOIA Requests For Data Records		

Synopsis:	To establish guidelines governing the providing of public records as a result of FOIA requests.		
Authority:	Delaware Title 29, Chapter 90C, § 9002C. Establishment of the Department of Technology and Information. A Department of Technology and Information is established, and shall have, in addition to the other powers, duties and functions vested in the Department by this chapter and where consistent with express provisions of this chapter, the power and duty to perform all the powers, duties and functions heretofore vested in the Office of Information Services by §§ 6352, 6353, 6354, 6357, 6358 and 6360 of this title. (73 Del. Laws, c. 86, § 1.)		
Applicability:	All users of the State of Delaware communications and computing resources. DTI is an Executive Branch Agency and has no authority over the customers in Legislative and Judicial Branches, as well as School Districts, and other Federal and Local Government entities that use these resources. However, all users, including these entities, must agree to abide by all policies, standards promulgated by DTI as a condition of access and continued use of these resources.		
Effective Date:	August 14, 2006	Expiration Date:	None
POC for Changes:	Chief Operating Officer		
Approval By:	Cabinet Secretary - State Chief Information Officer		
Approved On:	August 14, 2006		





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I. Policy

This policy sets forth the guidance for ascertaining what records are the public records of the Department of Technology and Information (DTI). In conjunction with the Freedom of Information Act (FOIA) Request for DTI Public Records Request Policy, this policy directs the handling of requests for records, under the FOIA, that are not in the possession of DTI. As part of its performance of official functions as an information technology service provider, in specific situations, DTI has the authority to electronically access the records of other executive departments and agencies subject to their express or implied consent as to such access in connection with DTI's information technology activities. DTI's activities include developing and implementing the sharing of data and information throughout the Executive, Legislative and Judicial branch in order to create efficiencies by standardizing data elements. However, DTI's authority does not extend to the search and retrieval of the records of another organization/department or agency in response to a FOIA request for such records submitted by the requesting person to DTI, unless those records have been expressly submitted to DTI by another department or agency for its review or other specific action by DTI.

Where records have been expressly submitted to DTI by another department or agency for its review or other specific action by DTI, DTI shall process FOIA requests for such records pursuant to its FOIA policy and procedures to ensure a timely response. The requesting organization will be billed for the time and materials necessary to fulfill their request.





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PROCESS FLOW RESPONSIBILITIES:

Step	Responsibility	Action
1.	DTI FOIA Coordinator	<p>In response to a FOIA request seeking records that do not constitute DTI records, and pursuant to the applicable sections of the FOIA, a written notice shall be issued denying the request. The written notice may suggest that the requesting person submit a FOIA request to a particular department or agency to determine whether that department or agency has nonexempt public records that might be responsive to the description of records given by the person.</p> <p>The FOIA Coordinator shall process written requests that describe public records of DTI sufficiently to enable DTI to find the records. These records include, but are not limited to, the following:</p> <ul style="list-style-type: none"> ▪ Documentation on application development and maintenance ▪ Documentation on desktop computer support and management ▪ Documentation on mainframe computer support and management ▪ Documentation on server support and management ▪ Documentation on local area network support and management ▪ Documentation on information technology contracts, projects and procurement management ▪ Documentation on information technology planning and budget management ▪ Documentation on DTI telecommunication services (including 2-way radio communications), security, infrastructure and support
2.	ALL DTI Employees	<p>Questions concerning the FOIA or general disclosure issues that may arise in the development of enterprise applications by DTI with organizations/departments and agencies shall be referred to the FOIA Coordinator immediately.</p>





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II. Definitions

The term "public record" is defined as "a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created." The functioning of DTI applications takes into consideration sensitive data and information that is protected by privacy and confidentiality exemptions under the FOIA and other laws. DTI recognizes that the data and information remain those of the organization/department or agency that created or collected the data and information. Accordingly, DTI's authority to electronically access records of other organizations/departments or agencies is not the equivalent of possessing those records.

III. Development and Revision History

Initial version established June 21, 2004.
 Reformatted January 20, 2005.
 Reformatted August 14, 2006.
 Appendix added May 9, 2008.

IV. Approval Signature Block

Thomas M. Jarrett	
Name & Title: Cabinet Secretary - State Chief Information Officer	Date August 14, 2006

V. Listing of Appendices

Appendix 1 – FOIA Email Policy For Executive Branch Agencies





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STATE OF DELAWARE FREEDOM OF INFORMATION ACT EMAIL POLICY FOR EXECUTIVE BRANCH AGENCIES

1. All Freedom of Information Act ("FOIA") requests for email records must be in writing. The request may be made either through a written letter or email. Every agency must designate a FOIA officer or custodian of records to whom all FOIA requests should be directed immediately on receipt.
2. Any request for email records that cannot easily be produced by an agency shall be sent to the Department of Technology and Information ("DTI"). DTI in turn will provide the email records requested to the agency if available. The determination as to what records are appropriate for disclosure remains with the agency, not DTI.
3. Agencies are to coordinate with the Office of Management and Budget's designated FOIA officer prior to the release of email records that contain personnel or employment-related information.
4. Every agency shall have rules, regulations or a written policy establishing reasonable fees for costs associated with the production of email records. The fees may include the cost to print, copy, and review documents. Additionally, if the services of DTI are used to produce documents all costs, including programming and retrieval costs, shall be charged to the person requesting such information. The agency will make a good faith estimate of costs and notify the person requesting the information of the estimated charges before performing the search. Agencies may by rule, regulation or written policy require that costs be paid before records are made available.
5. Any request for agency "records" includes the agency's relevant email records. A request for email records may not be overly broad. A request specifically for email records must identify the subject of the email, the date or approximate time period when the email was received or sent, and who received or sent the email. If the request does not contain this identifying information, the agency may ask the requestor to provide such identifying information. An example of an overly broad request would be a request for all email records of a state employee or department. Agencies are to evaluate whether email records are subject to disclosure under FOIA in the same manner as they evaluate whether paper documents are subject to disclosure under the statute. Accordingly, email records are





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subject to disclosure if they fall within the definition of "public record" under 29 *Del. C.* § 10002(g). Email records are not subject to disclosure if they fall outside the definition of "public record" and/or fall within one of the enumerated exceptions to "public record." See 29 *Del. C.* § 10002(g)(1)-(17). (e.g., "personnel," "medical," "investigatory files," "records involving labor negotiations or collective bargaining," "records pertaining to pending or potential litigation," etc.).



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