

Erie County Industrial Development Agency (“ECIDA”), Buffalo and Erie County Regional Development Corporation (“RDC”) and Buffalo and Erie County Industrial Land Development Corporation (“ILDC”)

FREEDOM OF INFORMATION LAW (“FOIL”) POLICY

Section 1 Applicability

(a) This FOIL Policy (“Policy”) shall apply to Erie County Industrial Development Agency and all of its affiliates, including: Buffalo and Erie County Regional Development Corporation (“RDC”); Buffalo and Erie County Industrial Land Development Corporation (“ILDC”) and such other affiliates as may hereafter be established by the Agency and which are determined to be subject to the requirements of Section 2925 of the Public Authorities Law (an “ECIDA Affiliate”) (hereinafter collectively referred to as the “Agency”) upon approval by the respective Boards of each corporation. Unless otherwise indicated, all references to the “Agency” herein shall also include the ECIDA Affiliates.

Section 2 Purpose

(a) This policy provides information concerning the procedures by which members of the public may access records of the Agency in accordance with the New York State Freedom of Information Law (“FOIL”).

(b) The Agency will furnish to the public the information and records required to be disclosed by the New York State FOIL (Article 6, Sections 84-90, of the Public Officers Law), and other applicable regulations. The FOIL gives members of the public the right to access government records, with certain exceptions. The full text of the FOIL law, guidance issued by the New York State Committee on Open Government, and other information about the law can be found on the Committee’s website, <http://www.dos.ny.gov/coog/index.html>

Section 3 Designation of Records Access Officer.

(a) The Agency shall designate, from time to time, a person from whom such Agency records may be obtained (the “Records Access Officer”).

(b) The Records Access Officer is responsible for insuring appropriate Agency response to public requests for access to records.

The Records Access Officer shall insure that Agency personnel:

(1) Maintain an up-to-date subject matter list reasonably detailing all records in the possession of the Agency, whether or not available under FOIL.

(2) Maintain a record setting forth the name, public office address, title, and salary of every officer or employee of the Agency.

Section 4 Hours for Public Inspection and Location

(a) The Agency shall accept requests for public access to records and produce records during regular business hours.

(b) The Record Access Officer shall designate the locations where records shall be available for public inspection and copying.

Section 5 Requests for Public Access to Records.

(a) All requests for Agency records shall be made in writing to the Record Access Officer through:

(1) direct mail or electronic mail or facsimile, at the Agency's post office address, email address or fax number, or

(2) the online FOIL request form on the Agency's website at <https://www.ecidany.com/>

(b) All requests for access to records shall:

(1) contain the name and contact information of the requestor, including, if possible, a telephone number and mailing address, and

(2) include a detailed description of the records that are being sought including, but not limited to, dates, titles, file designations, or any other information that will assist the Agency in locating the requested records.

(c) The Agency shall respond within five business days of receipt of a request by:

(1) informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;

(2) granting or denying access to records in whole or in part;

(3) acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or

(4) if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a

statement in writing within twenty business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.

(d) In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the Agency, the Agency's indexing and retrieval system, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

Section 6 Denial of Access to Records.

(a) Denial of access to records shall be in writing stating the reason therefor and advising the requestor of the right to appeal to the individual established to determine appeals, who shall be identified by name, title, business address and business phone number.

(b) The Agency shall designate, from time to time, a person to whom appeals shall be submitted.

(c) Any person denied access to records may appeal within thirty days of a denial.

(d) The time for deciding an appeal by the individual to determine appeals shall commence upon receipt of a written appeal identifying:

(1) the date and location of requests for records;

(2) a description, to the extent possible, of the records that were denied; and

(3) the name and return address of the person denied access.

(e) A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

(f) The person designated to determine appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government
Department of State
One Commerce Plaza, 99 Washington Ave, Suite 650
Albany, NY 12231

(g) The person designated to determine appeals shall inform the appellant and the Committee on Open Government of its determination in writing within ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in subdivision (f) of this section.

Section 7 Employee Notification of Release of Disciplinary Record

(a) For the purposes of this Section 7, the term “Disciplinary Record” shall mean and refer to those records set forth by Section 86(6) of the Public Officers Law, including any record created in furtherance of a law enforcement disciplinary proceeding, including, but not limited to:

- (1) the complaints, allegations, and charges against an Employee;
- (2) the name of the Employee complained of or charged;
- (3) the transcript of any disciplinary trial or hearing, including any exhibits introduced at such trial or hearing;
- (4) the disposition of any disciplinary proceeding; and
- (5) the final written opinion or memorandum supporting the disposition and discipline imposed including the Agency’s complete factual findings and its analysis of the conduct and appropriate discipline of the covered Employee.

(b) Pursuant to and in accordance with the requirements of Section 87(6) of FOIL, in the event the Agency is responding to a request for the Disciplinary Record of a current or former employee of the Agency (in each instance, an “Employee”) pursuant to this Policy and/or FOIL, the Agency shall provide written notification of said response to such Employee (the “Employee Notice”) at the same time the response is released to the submitter of such request.

Section 8 Fees.

- (a) There shall be no fee charged for:
 - (1) inspection of records;
 - (2) search for records; or
 - (3) any certification of records.
- (b) Fees for copies may be charged, provided that:
 - (1) the fee for copying records shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches;
 - (2) the fee for photocopies of records in excess of 9 x 14 inches shall not exceed the actual cost of reproduction.
- (c) The actual cost of production that may be charged by the Agency for producing records may include only the following:

(1) an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record if more than two hours of the employee's time is necessary to do so; and

(2) the actual cost of the storage devices provided to the person making the request in complying with such request; or

(3) the actual cost to the Agency of engaging an outside professional service to prepare a copy of a record, but only when Agency's information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.

(d) The Agency has the authority to redact portions of a paper record and may do so prior to disclosure of the record by making a photocopy from which the proper redactions are made.

(e) The Agency shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an Agency employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.

(f) The Agency may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.

(g) In the sole discretion of the Chief Executive Officer/President of the Agency, a determination to waive a fee for copying or reproducing a record may be granted in the instance where Agency staff has spent more than two hours of employee time to prepare a copy of the record requested, excluding search time.

Adopted this 26th day of March, 2025.