



The Metropolitan Planning Organization for the Greater Kalamazoo Area

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## KALAMAZOO AREA TRANSPORTATION STUDY

### Freedom of Information Act

#### Public Summary

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#### The Michigan Freedom of Information Act (FOIA)

Public Act 442 of 1976, MCL 15.231, et seq.

**States all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of Kalamazoo Area Transportation Study (KATS) consistent with this act. The people shall be informed so that they may fully participate in the democratic process.**

This Public Summary provides procedures and guidelines relevant to the general public regarding how to submit written Freedom of Information Act (FOIA) requests to KATS, possible responses, deposit requirements, fee calculations, and avenues for challenge and appeal. This Summary along with the KATS FOIA Procedures and Guidelines are available on the Kalamazoo Area Transportation Study website at [www.katsmpo.org](http://www.katsmpo.org) or upon request at no cost.

#### Section 1: How to Submit a FOIA Request to KATS

Requests to inspect or obtain public records prepared, owned, used, possessed or retained by KATS must be made in writing. Requesters can utilize the Request Form located in the Appendix. However, no specific form is required. The request must include the words "FOIA" or "FOIA Request" and sufficiently describe the public record so as to enable KATS to identify and find it. A request must include the requesting person's or person's agent, complete name, address, and phone number or email address. The written request may be submitted by mail or email.

#### Mail:

Kalamazoo Area Transportation Study  
ATTN: FOIA Coordinator  
5220 Lovers Lane Suite 110  
Portage, MI 49002

#### Email:

"FOIA Request" Must appear in the subject line.  
[info@katsmpo.org](mailto:info@katsmpo.org)

A person may request the public records be provided in a digital format in lieu of paper copies. KATS will comply with the request as long as it has available technological capabilities to allow processing.

If the FOIA Coordinator receives a verbal request for information that is available on KATS's website, the requester can be informed about the website address.

## **Section 2: Response to Expect from KATS**

KATS will issue a response to a FOIA request within 5 business days. If a request is mailed, it is deemed received on the day it arrives at KATS. If a request is made via email, it is deemed received one business day after the electronic transmission is made. If the emailed request went to a spam or junk mail folder, the request will be deemed received one business day after KATS becomes aware of the request.

KATS will respond to a request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying in part the request.
- Issue a notice indicating that due to the nature of the request, KATS needs an additional 10 business days to respond.

If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, KATS shall notify the requestor in its written response that all or a portion of the requested information is available on its website, including a specific webpage address where the requested information is available. Records available on the website are exempt from any charges.

Since KATS posts its FOIA procedures and guidelines on its website, KATS will include the website link to the documents in lieu of providing paper copies in its response to a written request.

## **Section 3: Deposit Requirement**

If the fee estimate, based on a good-faith calculation, exceeds \$50.00, KATS requires a good-faith deposit of half ( $\frac{1}{2}$ ) of the total estimated fee before providing the public records. The FOIA Coordinator's request for a deposit will include a detailed itemization of the fee calculation.

KATS may require a deposit of up to 100% of the estimated fee if all of the following apply (MCL 15.234 (11)):

- The final fee for the prior written request was not more than 105% of the estimated fee.
- The public records made available contained the information sought in the prior written request and remain in KATS's possession.
- The public records were made available to the individual, subject to payment, within the time frame estimated.
- Ninety (90) days have passed since KATS notified the individual in writing that the public records were available for pickup or mailing.
- The individual is unable to show proof of prior payment to KATS.
- KATS provides a detailed itemization calculating the cost of the current request.

Under this subset, the FOIA Coordinator shall no longer require an increased fee deposit if any of the following apply:

- The individual is able to show proof of prior payment in full to KATS.
- KATS is subsequently paid in full for the applicable prior written request.
- Three hundred sixty-five (365) days have passed since the written request for which full payment was not remitted.

If a deposit that is required, is not received by KATS within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requesting person and KATS is no longer required to fulfill the request. Notice of a deposit requirement is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

#### **Section 4: KATS Fee Calculation When a Request is Granted**

If the request is granted or granted in part, KATS shall charge a fee to recover costs associated with responding, to the extent permitted by the FOIA statute. KATS will calculate the fee utilizing a Detailed Cost Itemization Form. The form lists and explains allowable charges for the six fee components listed here and outlined below:

1. Labor Costs
2. Separation of Exempt from Nonexempt Information
3. Non-Paper Physical Media
4. Cost of Duplication
5. Duplication Labor Cost
6. Mailing Cost

1. Labor Costs. Labor costs shall include those directly associated with necessary searching for, locating, examination, review, and deletion and separation of exempt from nonexempt information. KATS shall not charge more than the hourly wage of its lowest-paid employee capable of responding regardless of whether that person is available or who actually performs the labor. Labor costs shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. KATS will itemize labor costs in a manner that expresses both the hourly wage and the number of hours charged.

KATS will itemize and add up to or equal to 50% to the applicable labor charge amount to cover, but not exceed, the cost of fringe benefits.

Overtime wages shall not be used.

2. Separation of Exempt from Nonexempt Information. KATS shall not charge a fee for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to KATS because of the nature of the request. If applicable, KATS will consider the following factors to determine whether the cost is unreasonably high:

- Volume of public records requested
- Estimated labor hours required to complete the request
- Complexity of searching for, examining, and reviewing, a public record, and the deletion and separation of exempt from non-exempt information
- Whether the public records are from different departments or committees
- The available staffing to respond to the request

- Any other similar factors identified in the request

If KATS does not employ a person capable of separating and deleting exempt information from nonexempt information as determined by the FOIA Coordinator on a case-by-case basis, it may hire contracted labor. Contracted labor costs must not exceed an amount equal to six times the state minimum hourly wage rate.

KATS shall not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the public record in question and the redacted version is still in KATS's possession.

3. Non-Paper Physical Media Requests. If a requestor stipulates that the public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided to him or her in lieu of paper copies, it does not apply if KATS lacks the technological capability necessary to provide records on the particular nonpaper physical media. The fee will be the most reasonably economical cost of the nonpaper physical media.

4. Cost of duplication. The fee for paper copies shall be 10 cents per sheet for copies made on 8-1/2-by-11-inch paper or 8-1/2-by-14-inch paper. Copies will be double sided; and other economical, cost saving strategies will be utilized as available.

5. Duplication and Publication Labor Cost. The fee for the cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on nonpaper physical media or through the internet or other electronic means as stipulated by the requestor will be charged by the minute. All partial time increments shall be rounded down.

6. Mailing Costs. Actual mailing costs will be charged for sending the public records in a reasonably economical and justifiable manner. KATS shall not charge more for expedited shipping or insurance unless specifically stipulated by the requestor, but may otherwise charge for the least expensive form of postal delivery confirmation when mailing public records.

## **Section 5: Waiver or Reduction in Fee**

The FOIA Coordinator may determine that a waiver or reduction of the fee is in the public interest if searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.

KATS will discount the first \$20.00 of the fee for each request by either an indigent or a non-profit as detailed below:

1. **Indigent** and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency.

You are not eligible for this \$20.00 discount if you:

- have previously received discounted copies of public records from KATS twice during that calendar year; or
- you are requesting information on behalf of other parties who are offering or providing payment to you to make the request.

2. **Nonprofit.** A nonprofit organization formally designated by the state to carry out activities under Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, or their successors, if the request meets all of the following requirements:
  - Is made directly on behalf of the organization or its clients.
  - Is made for a reason wholly consistent with the mission and provisions of those laws.
  - Is accompanied by documentation of its designation by the state.

## **Section 6: Appeal of a Denial**

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal by:

- Submitting a written appeal to the KATS Executive Director that specifically states the word "appeal" and the reasons you are seeking a reversal of the denial; OR
- Commencing a civil action in circuit court, to compel disclosure. This action must be filed within 180 days after KATS final determination to deny the request.

KATS Executive Director is not considered to have received the written appeal until the first regularly scheduled KATS Policy Committee meeting following submission of the appeal.

Within 10 business days after receiving the written appeal KATS shall do one of the following:

1. Reverse the disclosure denial.
2. Issue a written notice to the requesting person upholding the disclosure denial.
3. Reverse the denial in part and issue a written notice to the requesting person upholding the denial in part.
4. Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which KATS shall respond to the written appeal.

## **Section 7: Appeal of an Excessive FOIA Processing Fee**

If you believe that the fee charged by KATS exceeds the amount permitted, you may do any of the following:

- Submit a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted.
- Commence a civil action for a fee reduction. The action must be filed within 45 days after notice of the fee or determination of an appeal is received.

## Appendix

### FOIA Request for Public Records