

A Public Servant Guide to the 2010 Liberia Freedom of Information Act



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*“Everyone has the right to...seek, receive and
impart information...”*

Article 19, Universal Declaration of Human Rights

*“...access to information is indispensable to genuine democracy and
good governance and...no limitation shall be placed on the public right
to be informed about the government and
its functionaries.”*

Preamble, Liberian Freedom of Information Act

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INTRODUCTION

Liberia's Freedom of Information (FOI) Act, signed into law on September 16, 2010, provides all persons the right of access to public information. The right of access to information is a fundamental human right guaranteed by the Universal Declaration of Human Rights and the African Charter on Human and People's Rights, as well as the Constitution of Liberia. Freedom of Information laws or regulations have been passed in over 90 countries around the world, with an even greater number enjoying a constitutional right to information. Liberia is the first county in West Africa to establish a comprehensive right to information law and the sixth in Africa.

Advancing the right of access to information is a joint responsibility between the government and its citizens. While the government must assure full and effective implementation and enforcement of the FOI Act, it is up to the citizens to monitor government efforts and to use the law. Ultimately, the value of the FOI law rests in its implementation and use as it is only by seeking and making requests for information, that the benefits of access to information can fully be enjoyed.

This publication is not a comprehensive explanation of the FOI law or a procedures manual. However, we hope that it will serve as a helpful guide to assist public servants in understanding the benefits of the new Freedom of Information Act, some key specifics about the law, and the duties and obligations the FOI Act confers.

GLOSSARY OF TERMS

Access to Information: Access to information is used synonymously with **Freedom of Information**. The right of the public to request, receive, review, reproduce, and retain records and documents held by public agencies and private entities performing public functions or receiving public funding.

Appeal: To request a review of a particular decision, or failure to respond, to a higher tribunal.

Automatic Publication: The dissemination of information by a public agency or private entity receiving public funds or providing public services as it is generated or received, irrespective of whether a request for the information has been made. The FOI Act mandates certain key classes of documents/information be automatically published.

Designated Officer: An employee of a public agency assigned to receive and process requests for access to information and to oversee the automatic publication of information. In this guidebook, the term **“Information Officer”** is used instead of **“Designated Officer.”** See “Information Officer” for additional definitional details.

Document(s): Any retrievable or reviewable record in any form, whether written, printed, audio, visual, or electronic. These may include, but are not limited to maps, diagrams, photographs, film, micro film, video-tapes, sound recordings, machine-readable records, etc.

Exemption: A legal reason found within the FOI Act why the Government of Liberia and private entities receiving public funds or providing public services must withhold disclosure of a document. When an exemption applies, the public agency or private entity receiving public funds or performing public functions must show why the harm of disclosure outweighs the public interest in knowing the information.

Independent Information Commissioner: An individual appointed by the President of Liberia with the advice and consent of the Liberian Senate who is mandated by the FOI Act to oversee the implementation of the FOI Act, including compliance with the law. The Information Commissioner reviews all appeals from internal review. The Independent Information Commissioner shall enjoy operational, investigatory,

and regulatory autonomy, and general independence in the exercise of his or her work.

Information: Records/data of facts, people, subjects, events, phenomena, processes, etc. that are created and received, regardless of their form (hard copy documents, electronic documents, records, videos, films, photos, drawings, schemes, notes, maps, etc.).

Information Officer: A person appointed within a public agency or private entity receiving public funds or performing public services who is responsible for receiving requests for information held by the agency or entity and coordinating the response(s) of the agency or entity; serving as the primary FOI contact of the agency or entity; promoting best practices in records management; and assisting the public in filing requests for information.

Internal Review: A review of a negative decision or action or failure to act regarding a request for information. An internal review is conducted by a senior official or an internal information request review body established by each public agency.

Judicial Review: A review of a negative decision or action regarding a request for information or allegedly high reproduction fees that is carried out within the Civil Law Court in Montserrado County and/or in the Circuit Court of the county where the agency exists.

Public Agency: All bodies, entities, corporations, agencies and other institutions owned wholly or substantially by the Government of Liberia.

Public Authority: Any agency, ministry, or institution of the Government of Liberia or person acting on behalf of such agency, ministry, or institution. In this handbook the term “public agency” is used as to capture all public authorities and agencies.

Public Function: Any act normally carried out by the Government or any of its agencies, ministries and institutions.

Public Servant: A person who holds a government position by election or appointment.

Public Services: Services rendered for or to the general public at cost or for free, and includes sanitation, health, transportation, banking, education, broadcasting and telecommunications, etc.

Publication Scheme: Any publication by a public agency providing detailed information to the public on the nature and activities of that agency and information it publishes.

Public Record: A record, manual rule book, regulation, or other documents produced or received by, being used or having been used by, possessed by or under the control of a public authority, whether in written form, recorded, stored in electronic form, or in any other device.

Private Entity: Any body, business or otherwise, owned by private persons that receive public funds or benefits.

Record(s): Information created, received, and maintained by a government, organization, or person, in pursuance of legal obligations or in the transaction of business.

Records management: The process responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining information about government and business activities and transactions in the form of records.

Requester: A person who has made a request for access to information in accordance with the FOI Act.

THE VALUE OF (FREEDOM OF INFORMATION) ACCESS TO INFORMATION

The right of access to information is a fundamental human right now enjoyed by over 4 billion people within 90 countries around the world. Access to information is essential to assuring the exercise of all other rights, such as the right to education, health care and clean water. With information, people can more fully participate in public life, help set priorities for government spending, understand decisions taken in their name, and hold leaders to account. The right of access to information is particularly critical for vulnerable populations, including women and minorities, as with greater access to information they are better able to make informed decisions and enjoy more participation in democratic processes. A well informed society will better be able to influence government policies and enjoy the benefits of a vibrant and sustainable democracy.

Equally important, establishing the right of access to information is good for the government. It helps the public administration to be more effective and efficient, to have the necessary information to make good and equitable decisions, and to properly apply scarce resources. With a flow of information, there will be less duplication of efforts, time saved to do other work and better customer service. Access to information is the cornerstone of a modernized public administration.

Perhaps most importantly, in the long-term, the free flow of information will enhance trust between the government and its citizens.

In sum, the right of access to information:

- ◆ Is a fundamental human right
- ◆ Is critical to the exercise of other rights such as the right to education, health care, and clean water
- ◆ Is a tool in the fight against corruption
- ◆ Is necessary for good governance
- ◆ Increases transparency and government accountability
- ◆ Provides a clearer understanding of government policies
- ◆ Promotes citizen participation
- ◆ Fosters more efficient and effective public administration
- ◆ Improves use of scarce resources

THE VALUE OF (FREEDOM OF INFORMATION) ACCESS TO INFORMATION (cont.)

- ◆ Encourages foreign investment
- ◆ Ensures equity and fairness in government processes
- ◆ Is a key component of a modernized public administration
- ◆ Enhances citizen trust and confidence in government



UNDERSTANDING THE FREEDOM OF INFORMATION ACT

BASIC PRINCIPLES AND OBJECTIVES OF THE LAW

- ◆ Information is a fundamental right guaranteed by the Constitution of Liberia and the Universal Declaration of Human Rights as well as the African Charter on Human and People's Rights.
- ◆ Freedom of information is important for genuine democracy and good governance.
- ◆ The FOI Act is intended to promote and protect the effective, equitable, and affordable exercise of the right of access to information.
- ◆ The right of access to information includes the right to request and receive information, especially information related to public interest.
- ◆ Every person, irrespective of nationality or residence, has the right to information held by public bodies and private entities that receive public funds or perform public functions.
- ◆ Public bodies hold information not for themselves but in the name of citizens and for the public good.
- ◆ All public information should be made available upon request or proactively disclosed unless it falls under one of the clearly defined exemptions.
- ◆ Citizens requesting information do not have to provide a reason for their request or show that the document relates to them in any form.
- ◆ The government also has the duty to make as much information as possible available automatically, without the need for a specific request.
- ◆ Requests for information should be processed rapidly and fairly, without excessive fees or overly formal procedures.
- ◆ For persons who are denied information or are in any way dissatisfied, there are procedures for requesting an internal review, seeking an appeal before the Information Commissioner, and requesting a judicial review.

- ◆ Any public servant who wrongfully fails to keep and/or provide information is in violation of the Liberian Freedom of Information Act and may be penalized or sanctioned.

WHO? WHAT? WHERE?

Who can request and receive information?

The Liberian FOI Act establishes that everyone has the right to request and receive information without having to give any reason or justification or have a “legal interest” in the information.



Individuals requesting information do not need to give a reason or justification as to why they want the information

Who has the obligation to provide information?

Any public agency of the Government of Liberia is required to provide information under the FOI law. These agencies include but are not limited to:

- ◆ All branches and level of government
- ◆ Ministries
- ◆ Bureaus
- ◆ Departments
- ◆ Autonomous agencies
- ◆ Public corporations
- ◆ Commissions
- ◆ Committees & sub-committees
- ◆ Boards
- ◆ Military and paramilitary institutions
- ◆ All other government bodies supported by public resources form

Additionally, private entities that perform duties normally carried out by the government, provide public services, or receive public funds or benefits have the obligation to provide information under the FOI act. This includes academic institutions such as schools and universities; health service providers and hospitals; telecommunications operators; banks; and other similar entities. The information requested must relate

See the Preamble and Chapter 1 of the Liberia FOI Act for more information on principles and objectives of the law

to the public service or funds that the private entity performs or receives.



The FOI Act covers all branches/levels of government and private bodies performing public duties/services or receiving public funds

While personnel in all public agencies and private entities covered by the FOI Act are responsible for complying with the law, at least one staff member in each agency/entity should be appointed to serve as the designated Information Officer. The Information Officer shall be responsible for receiving requests for information held by the agency or entity and coordinating the response(s). The designated Information Officer shall serve as the primary contact of the agency or entity with the public relative to requests for and provision of information. His/her responsibilities also include promoting best practices in records management and assisting the public in filing requests for information.



Every public agency must have a designated Information Officer

What kind of information can be requested?

Any information held by a public authority or a private entity that receives public funds, engages in public functions, and/or provides public services that is in written, printed, audio, visual or electronic form can be requested. This includes any document that has been produced, received, used, controlled and/or possessed by any government agency or private entity that provides public services or receives public funds. Examples of such information include:

- ◆ Information about an agency's operation, such as its actions, budgets, and expenditures – how much money was received, spent and on what
- ◆ Agency policies
- ◆ Agency decisions and the basis and justification for the decision
- ◆ Statistical information
- ◆ Administrative staff manuals
- ◆ Laws, codes, statutes, and regulations



Any information may be requested

How does the public know where to obtain information?

Every public authority is required by the FOI law to create and maintain a user-friendly and widely accessible “publication scheme” that includes detailed information regarding its core functions, the nature of its activities and operations, and the types of documents/information it holds.

More specifically, the publication scheme should provide:

- ◆ Contact details for the authority’s Information Officer
- ◆ Clear description of the organization, function and powers of the agency and an explanation of how it makes decisions and discloses information
- ◆ Location and types of categories of documents and information the agency holds
- ◆ Procedures for accessing documents or information.

If an individual is not sure which authority holds the information they wish to obtain, they can review the publication scheme, ask the Information Officer in the agency that they think holds the information, or simply file their request with this agency. The agency is obligated to transfer requests in the event that they do not hold the information. The Information Officer has the duty to assist individuals with filing requests and obtaining information.



Each public agency must complete a Publication Scheme, which will help the requesters know how and where to make a request

See Section 2.1 of the Liberia FOI Act for more information on publication schemes

AUTOMATIC PUBLICATION

Is there any information available without the need to file a request?

The law requires that some information be made available to the public without the need to file a request for information. Information that is made available without the need for a request is considered to be “automatically published” or “proactively disclosed” information, and public agencies are required to provide this information through a website or physical publication. The types of documents subject to automatic publication include:

- ◆ Legislation
- ◆ Existing policies, procedures, and rules
- ◆ Budgets
- ◆ Financial accounts
- ◆ Material contracts
- ◆ Organizational charts
- ◆ Procedures for appealing decisions of the authority or its officers
- ◆ Other information that supports the public’s ability to deal with and monitor the authority’s performance

Automatic publication is one of the most useful tools in reducing the FOI burden on the public servants as well as in aiding the requesters. When documents are automatically published, there is no need for the time consuming and costly endeavor of identifying, finding and reviewing each document to satisfy a request. Moreover, for the requester, they can receive the information they need more immediately, without having to make a specific request.



Certain categories of information must be made available to the public without a specific request. Automatic publication helps to reduce the burden on the public agency.

See Sections 2.5 and 2.6 of the Liberian FOI Act for more information on automatic publication

PROCESSING A REQUEST

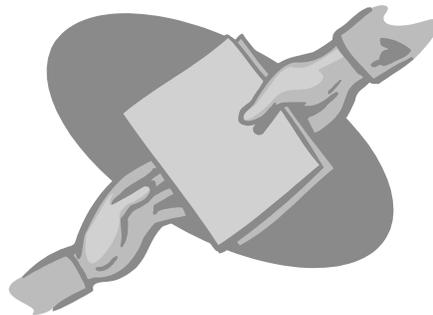
How can an individual file a request for information?

The request for information can be made in writing, by electronic mail, orally or by any alternative means. The request should describe the desired information with enough detail to help the public agency or private entity easily identify the information. When this has not been done, the public agency or private entity should work with the requester to clarify what information is being requested. Requesters do not need to provide a reason for why they want the information. An individual can file a request for information with the public agency or private entity that they believe holds the information they want. It is up to that agency or entity to transfer the request if they do not hold the information being requested.

Some information may already be available without having to file a request, as noted in the previous section on automatic publication.



The process for making a request should be as simple as possible



See Chapter 3 of the Liberian FOI Act for more information on procedures for making and responding to requests for information

SAMPLE REQUEST LETTER

City, Date

Dear Sir or Madam:

Freedom of Information Officer

(Name and Address of Government Agency /Public Authority/ Private Entity exercising public functions or providing public services from which information is being requested)

Ref: Freedom of Information Request and Subject

(Including a few words to identify the subject of the request)

Pursuant to the Freedom of Information Law of Liberia, I hereby request access to all the documents in possession of the _____

(Name of Agency), regarding _____

(description of the requested information) and a copy of all records pertaining to _____

(description of the subject or document containing the requested information).

I will expect a response within 30 working days as established in the law.

Provided that the requested information is under the possession of a different Agency /Public Authority/Private Entity, please transfer the request to the public authority or private entity believed to hold the requested information with notice to me.

If my request is denied in whole or in part, please provide detailed justification in accordance with the exemptions defined by the Law.

Thank you for your prompt attention to this matter.

Very truly yours,

(Name and Contact Information)

COST

Is there a fee for providing information?

The application for information and search are free. The requested documents also may be viewed for free. However, public agencies and private entities may charge for the actual cost of reproducing the requested information, such as photocopying, transcribing, scanning, or other forms of reproduction.



FOI fees can only be charged for actual costs of reproducing requested documents

If an individual requesting information thinks that the fees charged for the reproduction of the requested information are too high, they may seek an internal review of the decision. An internal review is a review of a negative decision or action regarding a request for information or allegedly high reproduction fees that is conducted by a senior official or an internal information request review body established by each public agency.

If the individual is still not satisfied, they may file a complaint with the Information Commissioner. More information about the appeals process is available on page 21 of this guidebook.



Fee determinations may be appealed



See Sections 3.11 and Chapter 6 of the Liberian FOI Act for more information on fees associated with the reproduction of requested information and appeals procedures

THE AGENCY RESPONSE

After a request is received, what happens next?

Once a request for information has been received the agency must begin processing the request. Each agency might develop its own internal processing guidelines, but generally the processing of a request begins with recording the date received and acknowledgment of receipt of the application for information, review of the request, and determination of whether the requested document is held within the agency.

In most cases, upon receiving a request for information, the Information Officer or other designated public servant should:

- ◆ Provide the requester with written confirmation that the request for information has been received and tell them the maximum number of days it should take to respond to the request
- ◆ Inform the requester if the requested information already has been automatically published and tell them how to locate the document
- ◆ Verify whether it holds the requested information, and if not, transfer the request to the correct agency
- ◆ Provide one of the following responses:
 - ◇ Inspection or copy of the requested information
 - ◇ Written denial of request
 - ◇ Notification of transfer of request



Each agency should have a clear procedure for recording and processing requests for information from the receipt of the application through the response to the request

How long should the response to a request for information take?

The law states that public agencies should provide a prompt response to all requests for information either by post, e-mail, or hand delivery within thirty (30) calendar days.

If the agency can show reasonable cause, it may extend the period for responding one time. The one time extension is for a maximum of an additional thirty (30) days.

If the agency does not hold the information, it can transfer the request one time to the correct public agency or private entity within fifteen (15) days. If the agency to which the request was transferred does not hold the desired information, the request can be transferred one additional time, but must be transferred within two weeks (10 working days) after receipt. Each time a request is transferred, up to a maximum of two (2) times, the agency transferring the request must inform the requester where the request has been transferred.



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- ◆ **30 calendar days to respond to the request for information**
 - ◆ **30 additional days if reasonable cause is demonstrated**
 - ◆ **2 transfers allowed maximum**
 - ◇ **First within 15 days**
 - ◇ **Second within 10 days**
-



See Chapter 3 of the Liberian FOI Act for more information on processing of a request for information

EXEMPTIONS

Can a request be lawfully denied?

The law states that a request for information, including inspecting, reviewing, or reproducing information, can be denied ONLY if the requested information falls under one of the exemptions outlined within the FOI act and the harm of disclosing the requested information is more than the public's interest in seeing the document.

All denials must be in writing, provide the reason for being denied, and be delivered to the requester within thirty (30) calendar days of the date the request was filed, except for cases of transfers as discussed previously.



Requests can only be denied if they fall within an exemption and the harm outweighs the public interest

What are the exemptions included in the FOI Act?

The Liberian FOI act indicates that a document, information, or record is exempted from public access ONLY if the release of the information would cause injury or substantial harm to:

- ◆ *National security, defense, or international relations*
- ◆ *Criminal Investigation*
- ◆ *Trade Secrets*
- ◆ *Privileged communications*

A document is exempt from the general right of access to information when it would be an unreasonable disclosure of *personal information*.



Personal information is generally exempt from disclosure

When part of the document has exempt information, only that part should be excluded from disclosure and the rest of the document released to the requester.

Also, public agencies and private entities cannot just claim that the requested information falls under an exemption, is confidential, or secret. They must also show that the harm of disclosure outweighs the public interest in knowing the information. To satisfy the public interest test, the agency must show the following:

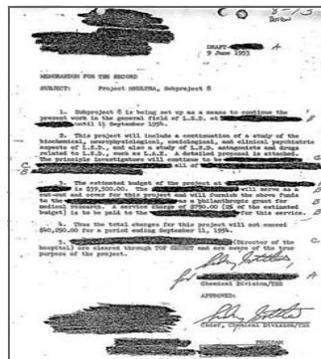
- ◆ The requested information falls under one or more of the exemptions outlined in the FOI Act
- ◆ Disclosure of the information will or is likely to cause injury or substantial harm to the interest protected by the exemptions
- ◆ The harm to be caused is greater than the benefit to be gained if the information was provided

Exempted information can only remain exempted from disclosure for a continuous maximum period of fifteen (15) years.



Only the part of a document that falls within one of the stated exemptions and which has been determined to have a likely substantial harm that will outweigh the public interest in disclosure may be exempted, and for a maximum of 15 years

Example of a document with exempted material redacted:



See Chapter 4 of the Liberian FOI Act for more information on exemptions and the public interest test

APPEAL MECHANISMS

What if an individual is not satisfied with the agency response or the agency does not respond?

If an individual receives:

- ◆ no response within the time period
- ◆ a denial of information
- ◆ a partial document
- ◆ a transfer notice with which they disagree
- ◆ a fee/charge that they think is too high
- ◆ or any other negative decision

they have the right to ask for an internal review. In an internal review, a senior official or internal review body will review the appeal and provide the requester with the outcome of the review in writing within 30 working days (approximately 6 weeks).

If the requester is still not satisfied, they may appeal to the independent Information Commissioner. The Information Commissioner is required to review the request for appeal and provide his/her final decision.

It is important to note that the requester does not need an attorney to appeal for an internal review or to the Independent Information Commissioner.



Any person that is not satisfied with an agency decision or does not receive a decision may request an internal appeal. If still not satisfied, the requester may appeal the internal review decision to the Information Commissioner.

A lawyer is not necessary for making an appeal.

Throughout all appeals processes, the burden of proof shall be on the public agency or private entity to show that it was in line with its obligations under the FOI Act. If a request is denied because of an exemption, the agency will have to demonstrate that disclosure of the document would likely cause a substantial harm that is not outweighed by the benefit to the public.



***It is up to the agency to prove why they made the decision
and that the decision is consistent with the law***

What if the requester is still unsatisfied?

If the requester is not satisfied with the Information Commissioner's decision, they have the right to request a judicial review before the Civil Law Court in Montserrado County and in the Circuit Court of the county where the public agency or private entity is located.

Can a public servant be sanctioned for illegally withholding or destroying information?

If there is a violation of the FOI Act, the person deemed responsible for the agency will be subject to monetary fines from L\$5,000 to L\$10,000. A public servant who wrongfully denies a request or violates the applicant's right to information also will be subject to fines, suspension and dismissal. The fines, formal reprimand, suspension, and/or dismissal of a public servant may be imposed by the public authority or the Information Commissioner following a review or hearing.

Willfully destroying or altering records that are the subject of a request for information will carry a criminal sanction of up to two (2) years imprisonment.

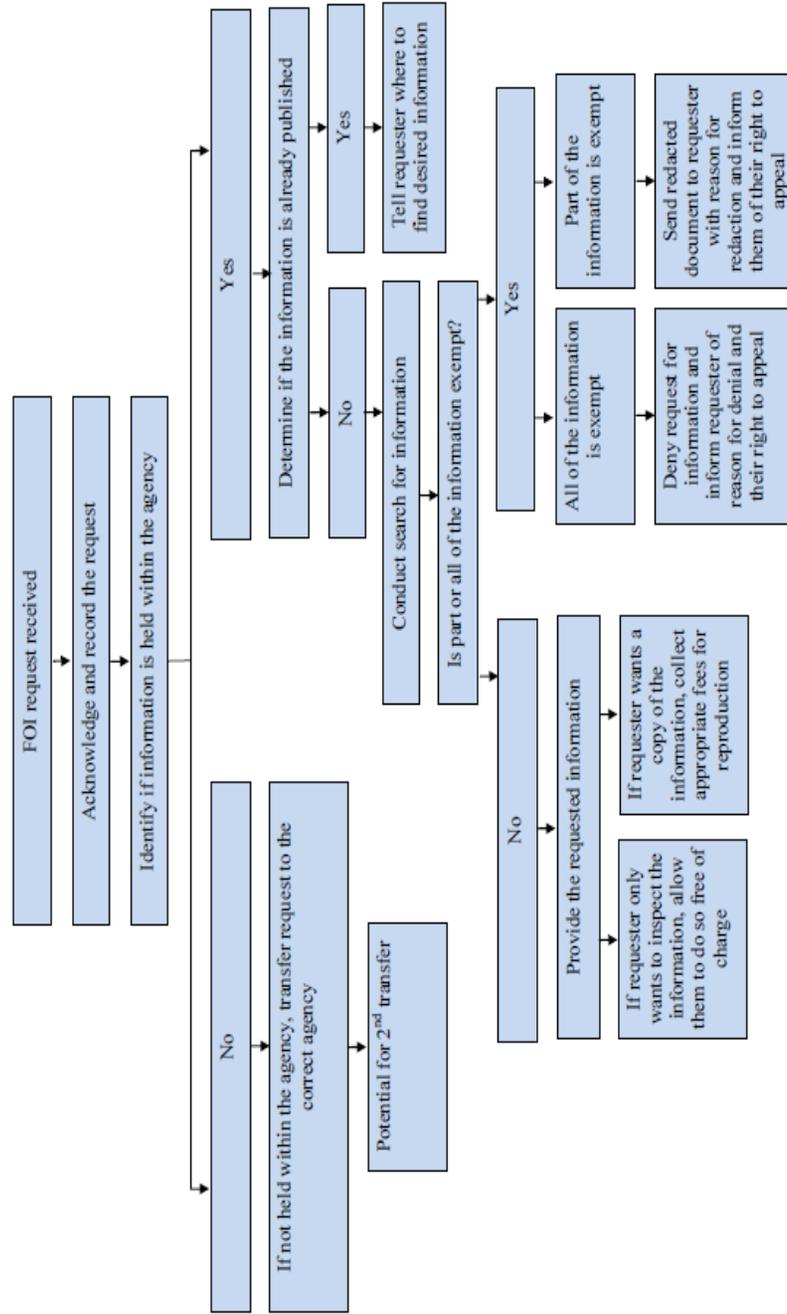
Any person who discloses information in good faith will be protected from civil or criminal liabilities.



***Violations of the FOI Act can result in civil and
criminal liabilities***

See Chapter 6 of the Liberian FOI Act for more information on appeal mechanisms

FLOWCHART: HANDLING A REQUEST FOR INFORMATION



THE INDEPENDENT INFORMATION COMMISSIONER

What is the Independent Information Commissioner?

The Independent Information Commissioner is an individual appointed by the President of Liberia with the advice and consent of the Liberian Senate who is mandated by the FOI Act to serve full-time and oversee the implementation of and compliance with the FOI Act. This position is funded by the Government through the National budget but enjoys operational, investigatory, and regulatory autonomy, and general independence in the exercise of his or her work. Examples of some of the functions and powers of the Independent Information Commissioner include:

- ◆ To oversee implementation of and ensure compliance with the FOI Act.
- ◆ To receive, hear, and decide all complaints as well as mediate disputes that arise under the FOI Act, including calling witnesses and reviewing evidence.
- ◆ To review information help by public agencies and private entities that receive public funds or perform public duties/ services, as well as internal review procedures, and fees charged.
- ◆ To order public agencies and private entities to release requested information that is not exempted by the FOI Act.
- ◆ To train and build the capacity of personnel of public agencies and private entities to ensure proper and consistent interpretation and application of the FOI Act.
- ◆ To consult with and provide support to Information Officers and other relevant public servants under the FOI Act.
- ◆ To develop access to information guidelines and procedures.
- ◆ To develop public awareness raising strategies and information dissemination campaigns to educate the public about their rights under the FOI Act and promote necessary compliance with the Act.

- ◆ To evaluate existing laws and regulations relating to access to information and to make recommendations for reform and harmonization of laws.
- ◆ To coordinate, compile, and publish an annual report to the National Legislature concerning activities carried out in relation to the FOI Act.

A technical secretariat will support the Information Commissioner in his/her work. While the Information Commissioner has many powers related to overseeing compliance with the law, and can order public agencies to release information, a critical aspect of the work is to serve as a support for the public servants. The Information Commissioner is designated to develop guidelines to assist the agency in fulfilling its FOI mandate, training public servants, and raising awareness.

Finally, the Information Commissioner is tasked with compiling an annual report. The annual report is submitted to the National Legislature, and includes the status of implementation and specifics related to the number of overall requests received, responses and fees.



The Independent Information Commissioner is responsible for overseeing implementation of the FOI Act, including supporting the public agencies and public servants to properly and effectively meet their responsibilities, and assuring compliance with the FOI Act

What are the reporting requirements?

All public agencies and private entities to which the FOI Act applies are required to submit to the Independent Information Commissioner an annual report concerning the FOI activities carried out during the preceding year. This report shall include several statistics related to the FOI Act, such as the number of requests

received, satisfied, pending, denied, etc. as well as the average number of days to process requests, the total amount of fees collected, and a description of compliance measures. Therefore, it is necessary to ensure that this information is accurately and consistently tracked within each public agency and private entity covered by the Act.



***Every public agency is responsible for submitting an
annual report to the
Independent Information Commissioner***



FREEDOM OF INFORMATION AND RECORD KEEPING

Records are critical to government as they document how a given process was carried out, provide a source of authoritative, complete and accurate information for future decision-making, and serve as historical memory. Moreover, records support the development, management, and delivery of strategies, operations and compliance and provide evidence of business transactions, ensuring accountability and transparency.

Without records, a freedom of information regime cannot exist. At its core, the right to information is largely dependent on the existence of good records. The proper creation and organization of records is one of the most critical ingredients for a successful right of access to information. If documents are not organized and cannot be located quickly, agencies may have difficulty complying with the FOI requirements of automatic publication and responding to requests within 30 days.

Consequences of poor records management include:

- ◆ reduced effectiveness and efficiency
- ◆ reduced capacity to make complete and informed decisions
- ◆ inability to assess the impact of government programs
- ◆ increased operating costs
- ◆ wasted investment in technology
- ◆ increased legal, financial and political risk
- ◆ reduced transparency and accountability
- ◆ gaps in organizational memory

When records management is poor, citizens are negatively affected because poor records management contributes to:

- ◆ ineffective public services
- ◆ reduced access to entitlements and the erosion of basic rights
- ◆ reduced transparency, accountability and trust in government

It is the responsibility of all public servants to assure an effective records management system, as every public servant has some duty to create, organize and store documents. In the most effective freedom of information systems, recordkeeping processes are integrated into the FOI policies and procedures. Working together, records management programs often build awareness of FOI requirements, and FOI officers can play an important role in promoting efficient recordkeeping.



Records management is one of the key ingredients to a successful FOI regime, and assists public agencies to work more efficiently and effectively



Records Inventory Survey

Inventory Number: _____

Assign a number to this survey. The number of this inventory survey should be the next number in the series after the previous survey.

<p>1. Ministry/Agency Name</p> <p>What is the Ministry or Agency name holding the records being surveyed?</p>			
<p>2. Division or Section or Unit Name</p> <p>State the name of the work area creating the records</p>			
<p>3. Room location (building, floor, and room number)</p> <p>Where is the room holding the records?</p>			
<p>4. Responsibility</p> <p>In the Division or Section or Unit named in item 1 above, what is the name or title of the person responsible for managing the files, records or electronic information?</p>			
	Series titles	Quantities	Date range (start & end yrs)
<p>5. Series* titles, quantities and date range</p> <p>Series titles: List the titles of records series in the work area named above. Use a second sheet if necessary.</p> <p><i>Do not list every file in the series.</i></p> <p>Quantities: Estimate the number of files in each series. Approximately how many files are there in the series? Tens? Hundreds? Thousands? Make sure to include paper and computerised records in your estimates.</p> <p>Date range (start and end years): For each title, show the year when the series was started and the year of the last entry; if the series is still open just state 'ongoing'.</p>			

*Explanatory note: A 'series' is the broad categories/classes of files and other records held by an organization or individual relating to the same function or activity (ex. Land titles; policy files; case files; budget information) or having a common form (ex. Ring binder, series of maps) or some other relationship arising from their creation, receipt or use.

Records Inventory Survey

Inventory Number: _____

Assign a number to this survey. The number of this inventory survey should be the next number in the series after the previous survey.

6. Condition of records Describe the condition of the records. Are they in good condition and readable?	
7. Access Describe what a person does to find a file. How are the files accessed? Are they numbered? Are they organized by subject matter? Is there an index? How are electronic files found?	
8. Storage How are the records stored? Are they in filing cabinets, on shelves, or in electronic form (i.e. on computers, hard disks or other drives)?	
9. Storage Conditions Are the records housed in clean conditions, or are they dusty, in a room with leaking water pipes, etc?	
10. Security measures How secure are the records? Who has access to them? Are they stored in locked cabinets or in locked or restricted rooms?	
11. Comments/Observations	
12. Your name The name of the person completing this inventory survey.	
13. Date Insert the date when you completed this form.	

TIPS FOR SUCCESS

Be open: A transparent government enables greater public participation in democratic processes.

Be proactive: Publish information automatically as required by the FOI act. Information is more valuable when it is shared widely and is easily accessible to the public, and the more information that is automatically published without the need for a decision/review, the less work for the public agency.

Be alert: When a request for information is received, public servants have a legal responsibility to identify that a request has been made and to process it according to the FOI Act. Staff who deal directly with customer correspondence/inquiries should be particularly prepared to identify potential requests.

Be informed: The FOI Act provides every person with the right of access to information without having to provide a reason for wanting the information. Access to information can be denied only when it falls within the exemptions stated in the FOI Act and the burden is on the public agency to show why the harm of disclosure outweighs the public interest in knowing the information. Public servants can be sanctioned for violating the FOI Act.

Be helpful: Help the public to access government information and documents as required by the FOI Act. Requesters may need help in identifying the information they want and in making requests that are narrow and well-defined. Information about how to make a FOI request, including contact information for persons designated to handle requests, should be easily and widely available to the public. Be sure to inform the public about their rights under the FOI Act.

Be efficient: Timely information is more useful. The FOI Act sets time limits for processing requests for information (30 calendar days for most requests), but it is better to deliver a response even quicker if possible.

Be clear: If access to information should be denied or a charge imposed, be sure the decision is in accordance with the FOI Act and clearly state the reason for that decision using plain language that is easily understood by the requester. Giving good, clear, and understandable reasons also may prevent complaints or requests for review.

Be thorough: Carefully read the request for information to be sure what the applicant wants. When unsure, contact the requester as soon as possible for clarification. When the request is clear, identify all of the information that falls within the scope of the request. In searching for the information, be sure to carry out an adequate and properly directed search.

Be a model record keeper: Effective record keeping is essential to the FOI Act. When records are maintained properly, they are easier to locate, making agencies more efficient at providing information upon request.

Be collaborative: Building a more transparent and open government is a team effort that requires collaboration within agencies and across government. Talk to other staff and agencies about simple and more effective ways of providing information and processing FOI requests. Consult guidance materials published by government agencies and civil society.

Be fair: Treat all requesters equally, whether they are journalists, local residents, public authority employees, or researchers.

The “Tips for Success” section emanates in part from the Australian Information Commissioner’s “Guide to the Freedom of Information Act 1982” and the United Kingdom Information Commissioner’s Office “Guide to Freedom of Information”

The Carter Center is currently working in Liberia to support government and civil society efforts to establish greater transparency and improve people's rights through freedom of information.

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