FOIA Rights and Responsibilities

The Rights of Requesters and the Responsibilities of AlexRenew

under the Virginia Freedom of Information Act

*Adopted: June 20, 2023*

The Virginia Freedom of Information Act (“FOIA”), located in § 2.2-3700 et seq. of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees.

A public record is any writing or recording—regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format—that is prepared or owned by, or in the possession of a public body or its officers, employees, or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

Your FOIA Rights

* You have the right to request to inspect or receive copies of public records, or both.
* You have the right to request that any charges for the requested records be estimated in advance. As of July 1, 2023, public bodies must notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records.
* If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA. Alternatively, you may contact the FOIA Council for a nonbinding advisory opinion.

Making a Request for Records from AlexRenew

* You may request records by U.S. Mail, fax, email, in person, or over the phone. FOIA does not require that you use any particular method to convey your request. FOIA also does not require that your request be in writing, nor do you need to state that you are requesting records pursuant to FOIA.
	+ From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives AlexRenew a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, AlexRenew cannot refuse to respond to your FOIA request if you elect to not put it in writing.
* Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that AlexRenew can identify and locate the records that you are seeking.
* Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of AlexRenew, nor does it require AlexRenew to create a record that does not exist.
* You may choose to receive electronic records in any format used by AlexRenew in the regular course of business.
	+ For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via email, on a computer disk or flash drive, or to receive a printed copy of those records.
* If AlexRenew has questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but AlexRenew may need to discuss your request with you to ensure that AlexRenew understands what records you are seeking.

To request records from AlexRenew or ask questions about requesting records, you may contact the designated FOIA officer:

Lorna Huff

Executive Assistant

Office of the General Manager

AlexRenew

1800 Limerick Street

Alexandria, VA 22314

(703) 721-3500, Ext. 2260

lorna.huff@alexrenew.com

AlexRenew’s FOIA Officer will provide AlexRenew’s General Manager with a copy of each request and seek his guidance on obtaining legal counsel, if necessary, and determining who should respond. The FOIA Officer will coordinate the response and assure the request is acted upon in the prescribed amount of time, logging the response date. AlexRenew’s Communications Director will serve as backup FOIA Officer when necessary.

In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about how FOIA works. The Council was created in the legislative branch of state government to issue opinions on the operation and application of FOIA, to publish educational materials, and to provide training about FOIA. However, please be aware that the Council is not a records repository and does not process records requests on behalf of other public bodies, nor is the Council an investigative or enforcement agency. The Council may be contacted by email at [foiacouncil@dls.virginia.gov](file:///%5C%5Clegmain%5Csysdata%5Cdlsdata%5CFOIA%20COUNCIL%5CStandard%20forms%2C%20letters%2C%20etc%5Cfoiacouncil%40dls.virginia.gov), or by phone at (804) 698-1810 or toll-free at 1-866-448-4100.

AlexRenew’s Responsibilities in Responding to Your Request

* AlexRenew must respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends, holidays or other days when AlexRenew is closed for business.
* The reason behind your request for public records from AlexRenew is irrelevant, and you do not have to state why you want the records before AlexRenew responds to your request. FOIA does, however, allow AlexRenew to require you to provide your name and legal address.
* FOIA requires that AlexRenew make one of the following responses to your request within the five-day time period:
	1. AlexRenew provides you with the records that you have requested in their entirety.
	2. AlexRenew withholds all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, AlexRenew must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows AlexRenew to withhold the records.
	3. AlexRenew provides some of the records that you have requested, but withhold other records. AlexRenew cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, AlexRenew may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. AlexRenew must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
	4. AlexRenew informs you in writing that the requested records cannot be found or do not exist (AlexRenew does not have the records you requested). However, if AlexRenew knows that another public body has the requested records, AlexRenew must include contact information for the other public body in our response to you.
	5. If it is practically impossible for AlexRenew respond to your request within the five-day period, AlexRenew must state this in writing, explaining the conditions that make the response impossible. This will allow AlexRenew an additional seven working days to respond to your request, giving AlexRenew a total of 12 working days to respond to your request. In the case of criminal investigative files requested pursuant to § 2.2-3706.1 of the Code of Virginia, AlexRenew is allowed an additional 60 working days to respond to your request, giving AlexRenew a total of 65 working days to respond to your request.
* If you make a request for a very large number of records, and AlexRenew cannot provide the records to you within 12 working days without disrupting AlexRenew’s other organizational responsibilities, AlexRenew may petition the court for additional time to respond to your request. However, FOIA requires that AlexRenew make a reasonable effort to reach an agreement with you concerning the production of the records before AlexRenew goes to court to ask for more time.

Charges

* AlexRenew may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. AlexRenew will not impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of AlexRenew. Any duplicating fee charged shall not exceed the actual cost of duplication. Prior to conducting a search for records, AlexRenew will notify the requester in writing that it may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records as set forth in subsection F of § 2.2-3704 of the Code of Virginia.
* Public records maintained by AlexRenew will be provided under the following limitations:
	+ Labor for production of documents will be charged to the requestor at the actual wage cost.
	+ Costs for copies will be based on prices established in AlexRenew’s copier contracts and paper costs. Larger drawings and blueprints will be done by outside contractors and charged at their usual rate. Postage and other material fees will be charged at their actual costs. Costs for providing electronic records will be charged at the usual rate for the staff person responding to the request.
	+ Time necessary to locate, retrieve and/or reproduce documents or records will be charged at the usual rate for the staff person responding to the request. Documents can be provided on digital media, if requested.
	+ The typical fee charged by AlexRenew for the production of public records ranges from $10 to $100 depending on the scope and nature of the request.
* If AlexRenew estimates that it will cost more than $200 to respond to your request, it may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days that AlexRenew has to respond to your request does not include the time between when it asks for a deposit and when you respond.
* You may request a fee estimate for the fee charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs. The five days that AlexRenew has to respond to your request does not include the time between when AlexRenew sends you the estimate and when you respond. If you do not respond within 30 days, then your request will be deemed to be withdrawn.
* If you owe AlexRenew money from a previous FOIA request that has remained unpaid for more than 30 days, AlexRenew may require payment of the past-due bill before it will respond to your new FOIA request.

Types of Records

Records maintained by AlexRenew include personnel records, record drawings, reports, and contracts into which AlexRenew has entered.

Although it is not required, AlexRenew will make every attempt to obtain records prepared by consultants, contractors, suppliers and vendors working directly for AlexRenew as part of a specific project or contract and share this information in response to a FOIA request, except in such cases where said records are protected as trade secrets or proprietary information of consultants, contractors, suppliers and vendors in accordance with Code of Virginia §2.2-4342.F.

Please note, while AlexRenew will make every attempt to obtain records requested of consultants, contractors, suppliers and vendors within the same response time as AlexRenew, they are not legally bound to meet the same time restrictions.

If you are unsure whether AlexRenew has the record(s) you seek, please contact AlexRenew’s FOIA Officer.

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. AlexRenew commonly withholds records subject to the following exemptions:

* Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
* Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
* Vendor proprietary information (§ 2.2-3705.1 (6))
* Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease (§ 2.2-3705.1 (8))
* Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
* The portions of records that contain account numbers or routing information for any credit card, debit card or any other account with a financial institution of any person or public body (§ 2.2-3705.1 (13))
* General Manager’s working papers (§ 2.2-3705.7 (2))
* Information, such as social security numbers, made confidential under other laws.
* Any other exemption permitted under FOIA that AlexRenew chooses to invoke at its discretion.

For a full list of exemptions, see the Code of Virginia § 2.2-3705.1 et seq.

Policy Regarding the Use of Exemptions

* It is the general policy of AlexRenew to exempt any and all records that are allowed to be exempted, redacted, or excluded from production by law.
* Any record exempt in the Code of Virginia, which the custodian of the record has the option of disclosing, shall not be disclosed.