

# Public Records Request: Employee Data

**DATE** January 3, 2019

**PRIMARY CONTACT** David DiSalvo, People First Director, DMS

Purpose: To describe the policies and the procedures that the Department of Management Services People First Division follows when providing State of Florida employee data via a public records request.

## BACKGROUND

When a public records request is made to the Department of Management Services (Department or DMS) for State of Florida employee data, the Department follows up with a phone call or email within 24 hours to let the requestor know it was received. The goal is to provide the requestor with the records within 24 hours. If the production of the data is not readily obtainable, a timely estimate of production costs will be provided.

The Department of Management Services People First Division (PF Division) takes every precaution to ensure that employees whose data is protected by law are, in fact, protected. The law makes certain records "confidential" and / or "exempt" from public disclosure. Confidential records are not subject to public inspection and may be released only to those authorized by statute, court order, or specific authorization. Exempt records cannot be compelled in a public records lawsuit and may be subject to release under certain circumstances.

Section 119.10(1)(b), Florida Statutes, states that a public officer who knowingly violates the provisions of s.119.07(1), Florida Statutes, is subject to suspension and removal or impeachment and is guilty of a misdemeanor of the first degree, punishable by possible criminal penalties of one year in prison, or \$1,000 fine, or both. Additionally, the release of certain protected information concerning the protection of victims of crimes or accidents can rise to the level of a felony.

Privacy indicators exist in the People First system to protect the data of employees who meet certain criteria for the following categories: sworn/certified, restricted employee, restricted relative, or protected identity. For example, some work and / or personal information may be protected from disclosure in a public records request for employee records for a firefighter, certified law enforcement officer, child investigator, judge, service member who served after September 11, 2001 or child or spouse of one of these. Other employees' information may also be protected based on specific life occurrences, such as the witness protection program.

Each state agency is responsible for accurately flagging within the People First system each employee in their agency covered by sections 119.07(1), 741.403 or 744.21031, Florida Statutes. If an employee's status places the employee into one or more of these categories, the agency human resources office should verify that the appropriate corresponding privacy indicator is checked in the People First system. The PF Division uses the privacy indicators to redact confidential and / or exempt employee data from a public records request.

Any unusual requests or questions concerning the inclusion or exclusion of data elements in response to a public records request should be referred to the Agency Open Government Contact within the General Counsel's Office for resolution. However, the Chief of Staff and Communications Director, will be notified of any request that includes the employee People First login ID, or any other sensitive-identifying information. The People First data warehouse team will not process the request until they receive approval from the DMS executive management team.

## PROCESS

### **Step 1: Log and clarify request**

- a. Notify the PF Division Director and the Office of General Counsel.
- b. For requests first received via a DMS office (e.g., General Counsel, Communications, Legislative Affairs), work with those offices to clarify the request.
- c. For requests received from an external entity:
  1. If the request was not made in writing, ask the requestor to write the request or write it down and read it back to the customer; however, it is not required that the request be submitted in writing. The objective is to make sure the request is clear.
  2. If the request was made via letter, call the requestor to clarify if needed.
  3. If the request was made via email, call or email the requestor to clarify if needed.
  4. Make sure to clarify with the requestor whether the Department is the appropriate responder of the data. For example, the Department of Financial Services (DFS) must provide information for current salary earnings.
- d. Log the request into the DMS Public Records Request System.

### **Step 2: Ask yourself or others internally: Does this record already exist? If so, does the request already exist on paper or electronically?**

- a. The Department is only responsible for producing existing employee data, and is not required to analyze, summarize, reformat or recalculate the existing data. The Department has no obligation to create records; only to make available existing records.
- b. If the requestor asks the Department to analyze, summarize, reformat or recalculate existing data, inform the requestor that the Department is required to only produce the existing record.

### **Step 3: Ask yourself or others internally: Are the records or some of the requested data exempt from public records law (Sections 119.071, 119.0711, 741.403 or 744.21031, Florida Statutes)?**

- a. See Exhibit 1 for a listing of data elements exempt from public records law. **NOTE: Social Security Numbers, driver's license numbers, and medical information (including pre-tax deductions for the Division of State Group Insurance (DSGI) sponsored plans) must be redacted for ALL State of Florida employees.**
  1. State agencies requesting social security numbers or driver's license information for business purposes can be provided. Notify the requestor that they must sign a "chain of custody" letter and advise them of the requirement to secure the information to protect it from unauthorized release or access.
  2. All requests for medical information (including pre-tax deductions for DSGI sponsored plans) must be approved by DSGI. Send the request to the Division of State Group Insurance Director for approval before proceeding.
  3. Requests for People First Service Center call recordings or call notes must be sent to PFSCOVERSIGHT@HRM.NORTHGATEARINSO.COM with a comment in the subject line: Call Recording Public Records Request. The requestor should provide the specialist name, date(s) and times of call(s), subject of call and the employee's People First login ID number to assist with locating the call(s). If the call contains confidential or exempt information, it must be redacted prior to releasing the information. A determination will need to be made if a HIPAA release document should be obtained from the requestor prior to producing the requested record.
- b. The General Counsel's Office should resolve any doubts or concerns.

### **Step 4: Processing the request**

- a. If the request is provided free of charge based on Exhibit 2 – Costs Guidelines, process the request.
- b. If the request incurs costs:
  1. Contact and notify the requestor of the cost and the estimated time frame. Ask the requestor whether he / she will want to proceed. See Exhibit 2 – Costs Guidelines.

2. If the costs are substantial, let the requestor know that the PF Division has developed a standard public request report that is designed to include data elements NOT exempt from the public records law. One or more of these elements may be included in the standard template: name, salary, position title, state hire date, agency name, and work telephone number. The cost to provide this report is in accordance with DMS policy.
  3. If requestor cancels the request, send a written cancellation confirmation to requestor either in the form of a letter or email.
  4. If the requestor indicates a desire to proceed:
    - The requestor should send a check to the "Department of Management Services, Office of the General Counsel, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950".
    - The PF Division should not process the request until the check is received.
    - Once received, the General Counsel's Office notifies the PF Division.
    - The PF Division runs a report from the data warehouse of the requested data, and uses the privacy indicators to redact confidential employee data from the request.
    - The PF Division fulfills the request by the estimated time frame, provides the documents to the requestor, and ensures written confirmation of receipt.
    - The following statement should also be included in the report footer, "This report may contain information that is considered confidential under state or federal law. Improper access or release of such information may be a violation of these laws."
- c. For requests first received via a DMS office (e.g., General Counsel, Communications, Legislative Affairs), work with those offices to process the request.

**Step 5: Review the request**

- a. The PF Division will review ALL information in the DMS Public Records Request system, to include additional emails, contacts, phone calls, etc., to ensure that they are reviewing the information holistically before sending the request.

**Step 6: Document Retention Requirements**

- a. The PF Division must file and maintain all materials, correspondence, etc., associated with the public records request in accordance with the retention schedule set by the Florida Department of State. Copies should be provided to Tommy Wagner, PF Division, for proper filing.
- b. Record the completion date in the DMS Public Records Request System.

**REFERENCES**

DMS Human Resource Management Program Guidelines: Agency Administration of Public Record Exemptions Applicable to Personnel Information and Other Personal Information  
<https://www.dms.myflorida.com/content/download/79972/462776>

**Exhibit 1 – Data Exempt From Public Records Law**

The following data elements in the People First system must be redacted from public records requests for employees who are designated Sworn/Certified, Restricted Employee, Restricted Relative, or Protected Identity as specified in law. **Note: Social Security Numbers, driver’s license numbers, and medical information (including pre-tax deductions for DSGI sponsored plans) must be redacted for ALL State of Florida employees.**

	Privacy Indicator	Sworn / Certified	Restricted Employee	Restricted Relative	Protected Identity
	Data Elements				
<b>P E R S O N A L</b>	<b>PERSONAL</b>				
	<b>Personal Information</b>				
	Name			X	X
	SSN	X	X	X	X
	Driver’s License Number	X	X	X	X
	Pre-tax Deductions (DGSI)	X	X	X	X
	Medical Information	X	X	X	X
	Date of Birth	X	X	X	X
	<b>Notification Email</b>	X	X	X	X
	<b>Employee Home Address</b>				
	Street Address	X	X	X	X
	City, State, County, ZIP Code	X	X	X	X
	Country	X	X	X	X
	Mobile Phone/Alternate Phone	X	X	X	X
	<b>Employee Mailing Address</b>				
	Street Address	X	X	X	X
	City, State, County, ZIP Code	X	X	X	X
	Country	X	X	X	X
	<b>Emergency Contact</b>				
	Contact Name	X	X	X	X
	Street Address 1	X	X	X	X
	Street Address 2	X	X	X	X
	City, State, County, ZIP Code	X	X	X	X
	Country	X	X	X	X
	Primary Phone/Mobile Phone	X	X	X	X
	Relationship	X	X	X	X

W O R K  R E L A T E D	Privacy Indicator	Sworn / Certified	Restricted Employee	Restricted Relative	Protected Identity
	Data Elements				
	<b>WORK-RELATED</b>				
	<b>Work Location Address</b>				
	Facility Number			X	X
	Address			X	X
	City, State, County, ZIP Code			X	X
	Campus Name			X	X
	Room			X	X
	411 Phone, Extension			X	X
	Cell			X	X
	Fax			X	X
	Alternate Phone, Extension			X	X
	<b>Work Mailing Address</b>				
	Address			X	X
	City, State, ZIP Code			X	X
	Mail Station			X	X
	<b>Work Email Address</b>			X	X

**Exhibit 2 – Cost Guidelines**

Some requests can be fulfilled free of charge. However, if the request requires extensive use of agency resources, charges may apply as listed below. An extensive use of agency resources occurs when agency personnel must spend more than 30 minutes retrieving, copying or redacting the requested material to comply with the request. The Department will provide the requestor with a detailed invoice before any such charges apply and require payment in advance of the production.

<b>Materials Costs</b>	One-sided Copy:	\$ 0.15 per page of not more than 8½ x 14 inches
	Double-sided copy:	\$ 0.20 per page of not more than 8½ x 14 inches
	All other copies:	Actual cost of duplication (material and supplies, not labor)
	CD-ROM:	\$0.85 each
	DVD:	\$1.15 each
	Certified Copies:	\$1.00 per page
	Packaging and Shipping Charges:	Estimated costs may be charged to reflect actual cost incurred
<b>Special Charges</b>	Excessive Use of Agency Resources (more than 30 minutes) for clerical work	\$16.03 per hour
	Excessive Use of Agency Resources (more than 30 minutes) for technical skills such as information technology resources or redacting activity	\$29.86 per hour