



SERVICE STANDARD 1.4.3 PUBLIC ACCESS TO GOVERNMENT INFORMATION

ITEM	DESCRIPTION
Title	Public Access to Government Information
Number	1.4.3
Version Number	1.0
SOPs	<ul style="list-style-type: none">➤ SOP 1.4.3-1 Informal Requests for Information under the GIPA Act➤ SOP 1.4.3-2 Formal Requests for Information under the GIPA Act
Owner	Executive Director, Executive Services
Contact	Manager, Legal and Government Information
Approved Date	25 October 2016
Next Review	25 October 2019
Classification	Unclassified
Document Control	Electronic - Printed Copies are Uncontrolled

1 Purpose

- 1.1 This Service Standard and its Standard Operating Procedures (SOPs) explain how the NSW RFS fulfils its obligations under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 1.2 This Service Standard also serves to highlight the following key principles and provisions in the GIPA Act:
 - a. The GIPA Act gives a person a legally enforceable right of access to information held by government agencies (section 9 (1));
 - b. The GIPA Act presumes that government information should be disclosed, unless there is an overriding public interest against doing so (section 5);
 - c. The NSW RFS is dedicated to the principles of openness and transparency and recognises that disclosing information and promoting open access will increase confidence in the NSW RFS as an effective and responsible government agency;
 - d. Significant penalties of up to 100 penalty units (\$11,000 at the time of writing) may apply if conduct is found to be contrary to the Act, or an unlawful direction or improper influence affects a decision, or if records are concealed, destroyed or altered.

2 Definitions

2.1 For the purposes of this Service Standard the following definitions apply:

- a. **Agency information guide:** is a mandatory part of an agency's open access information (section 20 GIPA Act) and includes information such as the structure and functions of the agency and a description of the information it holds.
- b. **Disclosure log:** means the log on the NSW RFS website containing information about certain access applications made to the NSW RFS which may interest other potential applicants, as required under the GIPA Act (sections 25 and 26).
- c. **Formal request for information:** means an access application as defined by section 4 (1) of the GIPA Act, which meets the following conditions as set out in the GIPA Act:
 - i. It is in writing.
 - ii. It has been sent to or lodged at an office of the NSW RFS.
 - iii. It clearly indicates that it is an access application made under the GIPA Act.
 - iv. It is accompanied by a fee of \$30.
 - v. It states a postal address for correspondence.
 - vi. It includes enough information to enable the NSW RFS to identify the information sought.
- d. **Informal request for information:** means a request from a member of the public for information held by the NSW RFS that is not made through a formal application for access.
- e. **Information:** means anything contained in a record held by the NSW RFS. Examples of 'information' may include, but are not limited to:
 - i. Information stored on computers.
 - ii. In hard copy files.
 - iii. In notebooks, diaries.
 - iv. Log books.
 - v. Audio recordings in digital or tape format.
 - vi. Video recordings.
 - vii. Photographs stored digitally or in hard copy format.
- f. **Legal and Government Information (LGI) section;** the NSW RFS unit responsible for the Service's compliance with its ongoing reporting, publishing, processing and coordination of formal requests and other obligations under the GIPA Act.
- g. **Open access: (or mandatory proactively released)** information (section 6 GIPA Act) means information that an agency must make publicly available, for example Ministerial media releases, information about contracts, and details of overseas travel.
- h. **Overriding public interest against disclosure:** (opiad) means on balance the public interest considerations against disclosure (as outlined at section 14 of the GIPA Act) outweigh the public interest considerations in favour of disclosure.

3 Policy

3.1 The NSW RFS will:

- a. Respond to formal and informal requests for information in a timely manner;
- b. Proactively disclose and publish information where possible and appropriate;

- c. Publish open access information in accordance with the GIPA Act, via the NSW RFS website.
- 3.2 The NSW RFS is committed to disclosing the information it holds, except where there is an overriding public interest against disclosure (opiad).
- 3.3 The Legal and Government Information (LGI) section is the NSW RFS unit responsible for the Service's compliance with its ongoing reporting, publishing, processing and coordination of formal requests and other obligations under the GIPA Act.
- 3.4 All enquiries concerning GIPA requests must be directed to LGI.

NSW RFS responsibilities under the GIPA Act

- 3.5 The NSW RFS will respond to all requests for information ensuring that:
- a. Where information is already publicly available, applicants are assisted in locating it;
 - b. Informal requests are dealt with promptly;
 - c. Formal requests for information are determined in accordance with the timeframes and requirements of the GIPA Act.
- 3.6 The Manager Legal and Government Information is the delegated NSW RFS Right to Information Officer, and is responsible for making decisions on behalf of the NSW RFS in respect of formal requests for information.
- 3.7 Members of the NSW RFS may be required to assist LGI by:
- a. Responding to general enquiries;
 - b. Conducting thorough searches of records/information;
 - c. Providing copies of records/information;
 - d. Identifying information that can be proactively released;
 - e. Providing accurate time estimates for searching.
- 3.8 Any decision to release or withhold information will be based on the public interest test as set out at section 13 in the GIPA Act. A decision to withhold information falling within the scope of a request for information under the GIPA Act can only be made where there is an opiad.
- 3.9 Information should, where possible, be made available informally.
- 3.10 Informal requests for information may be dealt with by the respective NSW RFS business unit; however LGI is to be consulted for advice.
- 3.11 If an informal application is of the type which, under the decision making framework provided by the GIPA Act, requires consideration of the competing public interests involved in the disclosure of information and third party interests, a formal GIPA application is required.
- 3.12 Decisions about formal requests for information are subject to external reviews by the Information and Privacy Commission or the NSW Civil and Administrative Tribunal. LGI will coordinate the NSW RFS response.
- 3.13 If there is a hearing before a Tribunal or Court, LGI will lead the NSW RFS representation in such matters, however other members of the NSW RFS may be required to give evidence about their involvement.
- 3.14 The NSW RFS is required to provide information in its Annual Report on the formal access applications it receives.
- 3.15 All NSW agencies are required to publish a range of open access information online, unless there is an overriding public interest against disclosure. Section 6 of the GIPA Act makes it mandatory for agencies to release the following information:
- a. An agency information guide describing its structure and functions and how those functions affect the public, as well as the type of information held by the agency and how that information is made publicly available;

- b. Documents tabled in Parliament by, or on behalf of, an agency;
- c. An agency's policy documents;
- d. A disclosure log of information released under formal access applications that may be of general public interest;
- e. A register of contracts an agency has with private sector entities for a value of \$150,000 or more.
- f. A record of open access information not made public due to an overriding public interest against disclosure, consistent with section 18 of the GIPA Act.

3.16 Clause 5 of the *Government Information (Public Access) Regulation 2009* (GIPA Regulation) also specifies that agencies must publish a list of their major assets, the total number and value of properties disposed of in the previous financial year, and their guarantee of service and code of conduct (if any).

4 Related documents

- > *Government Information (Public Access) Act 2009*
- > *Government Information (Public Access) Regulation 2009*
- > *Health Records and Information Privacy Act 2002*
- > *Privacy and Personal Information Protection Act 1998*
- > *State Records Act 1998*
- > SOP 1.4.3 - 1 Formal requests for information
- > SOP 1.4.3 - 2 Informal requests for information
- > Service Standard 1.1.7 Code of Conduct and Ethics
- > Service Standard 1.1.14 Personal Information and Privacy
- > Information and Privacy Commission New South Wales

5 Amendments

AMENDMENT DATE	VERSION NO	DESCRIPTION
14 December 2010	1.0	Initial release as Service Standard 1.1.40
25 October 2016	1.0	<ul style="list-style-type: none"> > Repeals Service Standard 1.1.40 v1.0 > Re-numbered as Service Standard 1.4.3 to align with new numbering > Review and update

SOP 1.4.3-1

Informal requests for information under the GIPA Act

1 Purpose

- 1.1 This SOP details the process for responding to informal requests for information under the *Government Information (Public Access) Act 2009* (the GIPA Act).

2 Procedure

- 2.1 Members of the public regularly approach the NSW RFS for information that is provided by the NSW RFS routinely and free of charge.
- 2.2 If a member of the public requests information that is not routinely provided, the request may be dealt with as an informal application for information under the GIPA Act, and LGI is to be contacted for further instruction.
- 2.3 An informal request for information generally applies to information that is readily available and not unreasonably time consuming to locate.
- 2.4 The NSW RFS officer dealing with the informal request will ensure that appropriate searches for the information requested are undertaken
- 2.5 Appropriate searches in responding to an informal request for information are searches that are not extensive or overly time consuming.
- 2.6 If fulfilling a request for information would require extensive searches, contact LGI for advice on whether the request should be dealt with as a formal request.
- 2.7 Where information meeting the description of a request has been found, the information must be carefully examined and LGI must be contacted for advice, especially with regard to information that appears to contain:
 - a. The personal information of third parties;
 - b. Cabinet or legal information;
 - c. The information of a business or another government agency;
 - d. Details about NSW RFS investigations or its methodology; and
 - e. Any other information that may be contentious or sensitive.
- 2.8 If a person is requesting confirmation that the NSW RFS attended a particular incident, they could submit a Request for Incident Related Information (RIRI) form which is available on the NSW RFS website.
- 2.9 Other examples of the type of information which may be provided informally include statistics, copies of past employees' own employment records, and historical policy documents (no longer available on the website).

3 Related forms

- None

SOP 1.4.3-2

Formal requests for information under the GIPA Act

1 Purpose

- 1.1 This SOP details the process involved for responding to formal requests for information under the *Government Information (Public Access) Act 2009* (the GIPA Act).

2 Procedure

- 2.1 All formal requests for information must be directed to LGI where they will be processed and determined by the Right to Information Officer.
- 2.2 The Right to Information Officer determines the validity of an application. If the application is not valid, section 52 of the GIPA Act obliges the NSW RFS to assist applicants in making their application valid, so far as reasonable.
- 2.3 NSW RFS members are required to:
 - a. Respond promptly to requests for information.
 - b. Accurately record the time taken to respond to such requests and search terms used.
- 2.4 The GIPA Act requires reasonable searches to be undertaken to identify any government information held by an agency – i.e. information contained in a record held by the NSW RFS, which includes documents where the NSW RFS may not be the author or owner, and electronic records where information is held in databases. Reasonable searches may include, among other things:
 - a. Searching for information stored on computer hard drive or shared network drives, including the information stored on the hard drives of NSW RFS laptops or information owned by the NSW RFS and stored on personal computers (including emails).
 - b. Searching document tracking systems such as RecFind / HPRM.
 - c. Searching physical files for documents.
 - d. Searching log books, diaries and notebooks.
 - e. Searching memory sticks/USB if provided by the NSW RFS or if used to store NSW RFS information.
 - f. Instructing staff or requesting assistance from colleagues to search for information.
 - g. Contacting LGI with any queries regarding the way appropriate searches should be conducted.
- 2.5 Only records that exist at the date the NSW RFS received the application need to be provided, a new document does not need to be created, however the GIPA Act does allow a new record to be created from databases; for example to extract a spreadsheet containing statistical data.
- 2.6 When larger applications are received, members may be asked to provide an estimate of the time required to search for and locate the information requested.
- 2.7 Time estimates may be used to inform negotiations with an applicant to reduce the scope of their request or to seek a deposit toward processing charges and so estimates must be as accurate as possible.
- 2.8 If an application would take an unreasonable amount of time to process and the applicant refuses to reduce the scope of their request to make it more manageable, under the GIPA Act the Right to Information Officer may refuse to deal with the application as an unreasonable and substantial diversion of NSW RFS resources (section 60).

- 2.9 All documents identified as falling within the scope of the application must be provided to LGI and if there is any doubt whether a document is captured or not, LGI should be contacted for clarification.
- 2.10 In processing the application, LGI will assess whether information located during searches is (a) within the scope of the application and (b) whether any part of that information requires consultation with third parties.
- 2.11 The GIPA Act requires an agency to take reasonably practicable steps to consult with a third party before providing access to information relating to them, for example the personal information of an individual; information about a person's business, commercial, professional or financial interests; or information about the affairs of a government (Commonwealth/ other State).
- 2.12 If a document is confidential, legally privileged, or for some other reason contentious or sensitive, advise the Right to Information Officer to ensure that affected third parties are consulted about their interests, and proper weight is given to those considerations in decision making.
- 2.13 The purpose of the formal GIPA consultation procedure is to ascertain whether the person (or other entity) has an objection to disclosure of some or all of their information and the reasons given.
- 2.14 LGI assesses and determines the impact any objection has in deciding if there is an opiad.
- 2.15 Financial Services is responsible for processing the fees received by the NSW RFS for formal requests for information under GIPA. Financial Services is to liaise with LGI in relation to payments received from GIPA applicants.

Responding to a formal request under GIPA

- 2.16 The following flowchart outlines the process to be followed when responding to a formal request for information under the GIPA Act.

3 Related forms

- Application form – GIPA.

Responding to a formal request under the GIPA Act

