

# REQUEST TO ACCESS A GOVERNMENT RECORD

**DATE:** June 28, 2013

**TO:** James Kurata, Acting Administrator, Central Services Division, Department of Accounting and General Services, State of Hawai'i

**FROM:** Daniel M. Gluck  
**Name or Alias**  
ACLU of Hawaii, P.O. Box 3410, Honolulu, HI 96801  
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**Contact Information**

Although you are not required to provide any personal information, you should provide enough information to allow the agency to contact you about this request. The processing of this request may be stopped if the agency is unable to contact you. Therefore, please provide any information that will allow the agency to contact you (name or alias, telephone or fax number, mailing address, e-mail address, etc.).

## **I WOULD LIKE THE FOLLOWING GOVERNMENT RECORDS:**

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the government record you request will prevent delays in locating the record. Attach a second page if needed.

- All records relating to any and all rules, regulations, policies, memoranda and practices relating to the issuing of permits for the use of State facilities and grounds under sections 3-111-25 and 3-111-26 of the Hawaii Administrative Rules ("HAR").
  - o This includes, but is not limited to, all records relating to the State of Hawaii's practices regarding:
    - The imposition or waiver of insurance requirements as a condition of receiving a permit (where "insurance requirements" means all requirements listed in Comptroller's Memorandum 2010-08: Insurance Requirements for Use of State Facilities and Grounds (available at <http://ags.hawaii.gov/wp-content/uploads/2012/09/CM2010-08.pdf>), and the Special Use Permit Form, Revised January 2011, page 3 (available at [http://ags.hawaii.gov/wp-content/uploads/2012/09/special\\_use\\_permit\\_and\\_instructions\\_jan-2011.pdf](http://ags.hawaii.gov/wp-content/uploads/2012/09/special_use_permit_and_instructions_jan-2011.pdf)), and/or any other requirement that an applicant for a permit obtain insurance;
    - The imposition or waiver of the advance notice requirement for permit applications (where "advance notice requirement" means the requirement in HAR section 3-111-26(a) that a permit application be submitted to the Comptroller at least fourteen (14) business days, and the requirement in section 3 of the Instructions for Special Use Permit that a permit application be submitted at least ten (10) business days, prior to the date of the activity for which the permit is sought).
    - The imposition or waiver of the permitting requirement in HAR §§ 3-111-25 and 3-111-26.
  - o Requester does not need copies of the following:
    - HAR Chapter 111 of Title 3;
    - Comptroller's Memorandum 2010-08: Insurance Requirements for Use of State Facilities and Grounds, available at <http://ags.hawaii.gov/wp-content/uploads/2012/09/CM2010-08.pdf>;
    - Comptroller's Memorandum 2010-12: Insurance Requirements for Use of State Facilities and Grounds, available at <http://ags.hawaii.gov/wp-content/uploads/2012/09/CM2010-12.pdf>; and
    - Special Use Permit Form and Instructions for Special Use Permit, Revised January 2011, page 3 (available at [http://ags.hawaii.gov/wp-content/uploads/2012/09/special\\_use\\_permit\\_and\\_instructions\\_jan-2011.pdf](http://ags.hawaii.gov/wp-content/uploads/2012/09/special_use_permit_and_instructions_jan-2011.pdf)).

**I WOULD LIKE:** (please check one or more of the options below)

**To inspect the government record.**

**A copy of the government record:** (Please check one of the options below.) See the back of this page for information about fees that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

Pick up at agency (**date and time**): \_\_\_\_\_

Mail

Fax (toll free and only if available)

Other, if available (please specify): **Documents may be e-mailed, rather than mailed, if more**

**convenient for the Department**

If the agency maintains the records in a form other than paper, please advise in which format you would prefer to have the record.

Electronic     Audio     Other (please specify): **However the records are maintained**

Check this box if you are attaching a request for waiver of fees in the public interest (see waiver information on back).

**SEE BACK FOR IMPORTANT INFORMATION**

## **FEES FOR PROCESSING RECORD REQUESTS**

You may be charged fees for the services that the agency must perform when processing your record request, including fees for making photocopies and other lawful fees. **The first \$30 of fees charged for searching for a record, reviewing, and segregating will not be charged to you. Any amount over \$30 will be charged to you.** Fees are as follows:

Search for a Record	\$2.50 for 15 minutes
Review and Segregation of a Record	\$5.00 for 15 minutes

## **WAIVER OF FEES IN THE PUBLIC INTEREST**

Up to \$60 of fees for searching for, segregating and reviewing records may be waived when the waiver would serve the public interest as described in section 2-71-32, Hawaii Administrative Rules. If you wish to apply for a waiver of fees in the public interest, you must attach to this request a statement of facts, including your identity as the requester, to show how the waiver of fees would serve the public interest. The criteria for this waiver, found at section 2-71-32, Hawaii Administrative Rules, are:

- (1) The requested record pertains to the operations or activities of an agency;
- (2) The record is not readily available in the public domain; and
- (3) The requester has the primary intention and the actual ability to widely disseminate information from the government record to the public at large.

## **AGENCY RESPONSE TO YOUR REQUEST FOR ACCESS**

The agency to which you addressed your request must respond within a set time period. The agency will normally respond to you within 10 business days from the date it receives your request; however, in *extenuating circumstances* the agency must respond within 20 business days from the date of your request. If you have questions about the response time, you may contact the agency's UIPA contact person. If you are not satisfied with the agency's response, you may call the Office of Information Practices at 808-586-1400.

## **REQUESTER'S RESPONSIBILITIES**

You have certain responsibilities under §2-71-16, Hawaii Administrative Rules. You may obtain a copy of these rules from the Lieutenant Governor's Office or from the Office of Information Practices. These responsibilities include making arrangements to inspect and copy records, providing further clarification or description of the requested record as instructed by the agency's notice, and making a prepayment of fees, if assessed.

## ACLU of Hawaii Foundation Request to Access Government Records

### Request for Waiver of Fees in the Public Interest

June 28, 2013

Pursuant to section 2-71-32 of the Hawaii Administrative Rules, the American Civil Liberties Union of Hawaii Foundation (“ACLU”) hereby requests a waiver of \$60 of the fees that may be assessed under section 2-71-31. The ACLU is a nonprofit, public-interest law firm; our mission is to protect individual freedoms guaranteed under the federal and state constitutions. The ACLU has been engaged in legal action and public education in Hawaii since 1965 on issues affecting constitutional rights.

Public dissemination of the information contained in these documents will contribute significantly to public knowledge and understanding of the State’s policies and practices relating to the issuing of permits for expressive activity on State grounds and facilities. These documents are not readily available in the public domain. The ACLU has frequently been at the forefront of monitoring and litigating concerns regarding the constitutionality of laws restricting people’s capacity to engage in protected First Amendment activities, including protests on State property. The ACLU has no commercial interest in the documents requested, and intends to publicize this information (as it has done with previous open records requests; *see, e.g.*, Michael Levine, *Honolulu Police Load Up on Taser Ammo, Pepper Spray, Bean Bags for APEC*, Civil Beat, Sept. 26, 2011, available at <http://www.civilbeat.com/posts/2011/09/26/12961-honolulu-police-load-up-on-taser-ammo-pepper-spray-bean-bags-for-apec/>).

The ACLU of Hawaii has the primary intention to publicize this information by posting the ACLU’s request, and the State’s response, on its website. The ACLU of Hawaii has a page on its website devoted to informing the public about government responses to open records requests, <http://acluhi.org/open-records-requests/>, and the ACLU of Hawaii has the primary intention of posting the State’s response on this web page. Additionally, the ACLU has approximately 2,000 members state-wide, and is able to disseminate this information to our members via our newsletter, our Facebook page (which has over 3,000 “friends”), our website (which, in less than two years, has received nearly 40,000 hits), and our Twitter feed (which has over 1,100 followers). In addition to publicizing these records on our website, the ACLU of Hawaii intends to publicize this information by using some combination of Facebook, Twitter, and/or our newsletter to help spread this information to our members and the general public.

Depending on the nature of the records provided by the State, we may also publicize this information by distributing the records to media outlets such as Civil Beat, the Honolulu Star-Advertiser, Hawaii Public Radio, and/or various other media outlets. We have the ability to distribute this information to the media, insofar as we have a comprehensive e-mail database of media contacts, we have developed strong professional ties to many journalists over our 45-year history, and we interact with journalists on a regular basis.

Requester respectfully asks that, if the total fees for this request (including copying charges) are anticipated to exceed \$50.00, Respondent notify Requester and obtain express written permission to proceed with the request.