

# NOTICE TO REQUESTER

TO: Anita Hofschneider, on behalf of Peer News LLC, dba Honolulu Civil Beat  
(Requester's name)

FROM: Office of the Auditor, State of Hawai'i; Megan Johnson; 587-0800; LAO.Auditors@hawaii.gov  
(Agency, and agency contact person's name, telephone number, & email address)

DATE THAT THE RECORD REQUEST WAS RECEIVED BY AGENCY: December 4, 2017

DATE OF THIS NOTICE: December 14, 2017

**GOVERNMENT RECORDS YOU REQUESTED** (attach copy of request or provide brief description below):

1. See attached copy of Request to Access a Government Record
- 2.
- 3.
- 4.

**THIS NOTICE IS TO INFORM YOU THAT YOUR RECORD REQUEST:**

- Will be granted in its entirety.
- Cannot be granted. Agency is unable to disclose the requested records for the following reason:
- Agency does not maintain the records. (HRS § 92F-3)  
Other agency that is believed to maintain records: \_\_\_\_\_
  - Agency needs further clarification or description of the records requested. Please contact the agency and provide the following information: \_\_\_\_\_
  - Request requires agency to create a summary or compilation from records, but requested information is not readily retrievable. (HRS § 92F-11(c))
- Will be granted in part and denied in part, **OR**  Is denied in its entirety  
Although the agency maintains the requested records, it is not disclosing all or part of them based on the exemptions provided in HRS § 92F-13 and/or § 92F-22 or other laws cited below.  
(Describe the portions of records that the agency will not disclose.)

RECORDS OR INFORMATION WITHHELD  
Copies of emails sent between Robert Klein, attorney representing the Office of Hawaiian Affairs and the Office of the Auditor between January 2017 and December 2017.

APPLICABLE STATUTES  
HRS §§ 23-9.5, and 92F-13(3) and -13(4)

AGENCY JUSTIFICATION  
The requested emails are confidential working papers and/or are being withheld to avoid the frustration of a legitimate government function.

**REQUESTER'S RESPONSIBILITIES:**

You are required to (1) pay any lawful fees and costs assessed; (2) make any necessary arrangements with the agency to inspect, copy or receive copies as instructed below; and (3) provide the agency any additional information requested. If you do not comply with the requirements set forth in this notice within 20 business days after the postmark date of this notice or the date the agency makes the records available, you will be presumed to have abandoned your request and the agency shall have no further duty to process your request. Once the agency begins to process your request, you may be liable for any fees and costs incurred. If you wish to cancel or modify your request, you must advise the agency upon receipt of this notice.

**METHOD & TIMING OF DISCLOSURE:**

Records available for public access in their entireties must be disclosed within a reasonable time, not to exceed 10 business days from the date the request was received, or after receipt of any prepayment required. Records not available in their entireties must be disclosed within 5 business days after this notice or after receipt of any prepayment required. HAR § 2-71-13(c). If incremental disclosure is authorized by HAR § 2-71-15, the first increment must be disclosed within 5 business days of this notice or after receipt of any prepayment required.

**Method of Disclosure:**

- Inspection at the following location: \_\_\_\_\_
- As requested, a copy of the record(s) will be provided in the following manner:
  - Available for pick-up at the following location: \_\_\_\_\_
  - Will be mailed to you.
  - Will be transmitted to you by other means requested: \_\_\_\_\_

**Timing of Disclosure:** All records, or the first increment if applicable, will be made available or provided to you:

- On \_\_\_\_\_, 20\_\_\_\_.
- After prepayment** of 50% of fees and 100% of costs, as estimated below.

**For incremental disclosures,** each subsequent increment will be disclosed within 20 business days after:

- The prior increment (if one prepayment of fees is required and received), or
- Receipt of each incremental prepayment, if prepayment for each increment is required.

**Records will be disclosed in increments because the records are voluminous and the following extenuating circumstances exist:**

- Agency must consult with another person to determine whether the record is exempt from disclosure under HRS chapter 92F.
- Request requires extensive agency efforts to search, review, or segregate the records or otherwise prepare the records for inspection or copying.
- Agency requires additional time to respond to the request in order to avoid an unreasonable interference with its other statutory duties and functions.
- A natural disaster or other situation beyond agency’s control prevents agency from responding to the request within 10 business days.

**ESTIMATED FEES & COSTS AND PAYMENT:**

**FEES:** For personal record requests under Part III of chapter 92F, HRS, the agency may charge you for its costs only, and fee waivers do not apply.

For public record requests under Part II of chapter 92F, HRS, the agency is authorized to charge you fees to search for, review, and segregate your request (even if a record is subsequently found to not exist or will not be disclosed in its entirety). The agency must waive the first \$30 in fees assessed for general requesters, OR in the alternative, the first \$60 in fees when the agency finds that the request is made in the public interest. Only one waiver is provided for each request. See HAR §§ 2-71-19, -31 and -32.

**COSTS:** For either personal or public record requests, the agency may charge you for the costs of copying and delivering records in response to your request, and other lawful fees and costs.

**PREPAYMENT:** The agency may require prepayment of 50% of the total estimated fees and 100% of the total estimated costs prior to processing your request. If a prepayment is required, the agency may wait to start any search for or review of the records until the prepayment is received by the agency. Additionally, if you have outstanding fees or costs from previous requests, including abandoned requests, the agency may require prepayment of 100% of the unpaid balance from prior requests before it begins any search or review for the records you are now seeking.

The following is an itemization of what you must pay, based on the estimated fees and costs that the agency will charge you and the applicable waiver amount that will be deducted:

**For public record requests only:**

Fees: Search	Estimate of time to be spent: _____ hours (\$2.50 for each 15-minute period)	\$
Review & segregation	Estimate of time to be spent: _____ hours (\$5.00 for each 15-minute period)	\$
Fees waived	<input type="checkbox"/> general (\$30), <b>OR</b> <input type="checkbox"/> public interest (\$60) (Only one waiver per request)	<\$ _____>
Other	_____	\$
	(Pursuant to HAR §§ 2-71-19 & 2-71-31)	
<b>Total Estimated Fees:</b>		<b>\$</b>

**For public or personal record requests:**

Costs: Copying	Estimate of # of pages to be copied: _____ (@ \$ _____ per page, pursuant to HRS § 92-21)	\$
Delivery	Postage	\$
Other	_____	\$
<b>Total Estimated Costs:</b>		<b>\$</b>

**TOTAL ESTIMATED FEES AND COSTS from above:** \$

- The estimated fees and costs above are for the first incremental disclosure only. Additional fees and costs, and no further fee waivers, will apply to future incremental disclosures.
- PREPAYMENT IS REQUIRED** (50% of fees + 100% of costs, as estimated above) \$
- UNPAID BALANCE FROM PRIOR REQUESTS** (100% must be paid before work begins) \$

**TOTAL AMOUNT DUE AT THIS TIME** \$

Payment may be made by:  cash  
 personal check payable to \_\_\_\_\_  
 other \_\_\_\_\_

For questions about this notice or the records being sought, please contact the agency person named at the beginning of this form. Please note that the Office of Information Practices (OIP) does not maintain the records of other agencies, and a requester must seek records directly from the agency it believes maintains the records. If the agency denies or fails to respond to your written request for records or if you have other questions regarding compliance with the UIPA, then you may contact OIP at (808) 586-1400, [ois@hawaii.gov](mailto:ois@hawaii.gov), or 250 South Hotel Street, Suite 107, Honolulu, Hawaii 96813.

-----Original Message-----

From: Anita Hofschneider [<mailto:request+x4nuamc9vm@foi.uipa.org>]

Sent: Monday, December 04, 2017 1:05 PM

To: LAO Auditors <[lao.auditors@hawaii.gov](mailto:lao.auditors@hawaii.gov)>

Subject: Records Request for Office of the Auditor: Emails [#77]

Aloha,

Pursuant to the public records law, I would like to request the following records in electronic format sent to my email address.

I would like a copy of emails sent between Robert Klein, attorney representing the Office of Hawaiian Affairs, and the Office of the Auditor between January 2017 and December 2017.

Mahalo,

Anita Hofschneider

# REQUEST TO ACCESS A GOVERNMENT RECORD

This is a model form that may be used by a Requester to provide sufficient information for an agency to process a record request. Although the Requester is not required to use this form or to provide any personal information, the agency needs enough information to contact the Requester with questions about this request or to provide its response. This request may not be processed if the agency has insufficient information or is unable to contact the Requester.

DATE: 12-04-2017

TO: **Office of the Auditor**  
Agency that Maintains the Government Record

LAO.auditors@hawaii.gov  
Agency's Contact Information

FROM: request+x4nuamc9vm@foi.uipa.org  
Requester's Name or Alias

request+x4nuamc9vm@foi.uipa.org  
Requester's Contact Information

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## **AS THE REQUESTER, I WOULD LIKE THE FOLLOWING GOVERNMENT RECORD:**

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 requested government record will prevent delays in locating the record. Attach additional pages if needed.

I would like a copy of emails sent between Robert Klein, attorney representing the Office of Hawaiian Affairs, and the Office of the Auditor between January 2017 and December 2017.

I'm a reporter at Honolulu Civil Beat. The requested records are not readily available in the public domain. If the records are readily available, please let me know where to find them. The requested records concern OHA's operation and activities, and I intend to use the records to write a story. For these reasons, I believe that waiver of search, review, and segregation fees for my request for government records would serve the public interest.

**I WOULD LIKE:** (Please check one or more of the options below, as applicable)

**To inspect the government record**

**A copy of the government record:** (Please check only one of the options below.) See the next page for information about fees and costs 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 (address): \_\_\_\_\_
- E-mail (address): request+x4nuamc9vm@foi.uipa.org
- Fax (toll free and only if available; provide fax number): \_\_\_\_\_
- Other, if available (please specify): \_\_\_\_\_

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): \_\_\_\_\_

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

**FEES FOR PROCESSING PUBLIC RECORD REQUESTS**

You may be charged fees for the services that the agency must perform when processing your request for public records, 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

Generally, no search, review, and segregation fees may be charged if you are making a request for personal records that are about you.

**WAIVER OF FEES IN THE PUBLIC INTEREST**

As an alternative to the \$30 fee waiver (not in addition to), the agency may waive the first \$60 of fees for searching for, reviewing and segregating records when the waiver would serve the public interest. 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.

**COSTS**

The Agency may charge you any other lawful fees and the costs to copy and deliver your personal or public record request.

**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 or the records being sought, you should first contact the agency and request to consult with the agency's UIPA contact person.

**Please note that the Office of Information Practices (OIP) does not maintain the records of other agencies and a requester must seek records directly from the agency.** If the agency denies or fails to respond to your

written request for records or if you have other questions regarding compliance with the UIPA, then you may contact OIP at 808-586-1400, [oip@hawaii.gov](mailto:oip@hawaii.gov), or 250 South Hotel Street, Suite 107, Honolulu, Hawaii 96813.

**REQUESTER'S RESPONSIBILITIES**

You have certain responsibilities under section 2-71-16, Hawaii Administrative Rules, which 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 and costs, if assessed. The rules and additional training materials are available online at [oip.hawaii.gov](http://oip.hawaii.gov) or from OIP.