

TOWN OF GILL  
M A S S A C H U S E T T S



[www.gillmass.org](http://www.gillmass.org)

SELECTBOARD MEETING MINUTES  
*August 8, 2016*

Call to Order: The Selectboard meeting was called to order at 5:45 PM.

Members Present: John Ward, Randy Crochier      Members Absent: Greg Snedeker

Others Present: Ray Purington, Admin. Assistant; Janet Masucci; Gene Beaubien, Mick LaClaire, Lynda Hodsdon Mayo

Fire Department Repair Estimate: Fire Chief Gene Beaubien presented an estimate from KME Fire Apparatus for repairs to Engine 1. The proposed work was found during a July 1 service check that KME did at the fire station. The estimate includes repairs to the chassis and pump system, and totals \$5,507.02. By consensus it was decided to send Engine 1 to Albany for the repairs.

Engine 2 was brought to KME's Albany, New York facility, repaired, and is back in service in Gill. Beaubien has not received the invoice for Engine 2's repairs, but expects it will cost more than Engine 1. The repair bills for both engines will come out of the Fire Department's annual budget for maintenance.

Highway Diesel Fuel Pump: Highway Superintendent Mick LaClaire provided an update on a replacement pump (dispenser) for the diesel tank at the Safety Complex. A Chicopee vendor quoted one for more than \$15,000. Beardsley Inc., out of Springfield VT, has quoted a new two-hose dispensing pump that will record the gallons dispensed by each hose. The hoses would be padlocked; one hose would be used by the Fire Department and the other by the Highway Department. Beardsley's quote was for \$7,115.78, plus installation and a small amount of wiring by an electrician.

The NMH Donation account was briefly considered as the source of funds for the project, and it was suggested that the Vermont Yankee account could be used. There is currently \$23,000 (approx.) in the VY account. Beaubien, who is also the Emergency Management Director, was okay with the use of the VY funds for this project. The Highway Department's annual budget, as well as the building maintenance budget for the Safety Complex are also possible funding sources. It was decided to get the dispensing pump ordered, and the Selectboard will revisit the topic at their 8/22/16 meeting to decide which account(s) will be used to pay for the project.

Road Maintenance – Mt. Hermon Road: LaClaire reported that the northern 1,600 feet of Mt. Hermon Road, from the intersection with Cutler Road (a campus road) north to Main Road, is due for road repairs and maintenance. If cost was not an issue, it should have drainage pipes and catch basins installed, and the roadway would be reclaimed and paved. At a minimum, the existing road surface needs to be skim-coated with a new layer of asphalt.

LaClaire noted that the Northfield Mount Hermon School is the only property owner along the entire length of the road, and that there have been informal conversations with the School's Facilities Department about the School taking over the road from the Town.

Before approving any funds for work on the road, the Selectboard asked for more information. Does the School have any interest, at a higher level than "informal conversations," in taking ownership? What is the process to transfer ownership? What is the likely impact on the Town's annual allotment of Chapter 90 Road Aid if the 0.7 miles of Mt. Hermon Road are no longer owned by the Town? The research will be done, and the topic will return on the 8/22 agenda.

FY16 Part-time Shifts & Call-outs: A discussion of FY16 shifts and callouts worked by part-time personnel was postponed until 8/22, to allow all three members of the Selectboard to be present. Beaubien and Police Chief David

Hastings will be asked to attend that meeting to participate in the discussion and answer questions. Beaubien and LaClaire left the meeting at 6:22 PM.

Public Records Law: Town Clerk Lynda Hodsdon Mayo met with the Selectboard to discuss the updated Public Records Law that was the topic of a conference she recently attended. The changes to the law go into effect January 1, 2017, but towns are being encouraged to begin preparing now. One new requirement of the law is that each town must designate at least one Records Access Officer to coordinate responses to public records requests.

The new law establishes much stricter timelines on fulfilling requests, limits fees that can be charged, and allows court-imposed fines and attorney's fees for violations. Given the complexity and seriousness of the law, it was suggested that there be an all boards, all departments training session. Lynda and Ray will continue to gather and share information about training opportunities and ways that other towns are handling implementation. Hodsdon Mayo left the meeting at 6:35 PM.

Minutes: Randy made a motion, seconded by John, to approve the minutes of 5/2/16 and 7/25/16. The vote was unanimous in the affirmative.

Green Community Grant: Nothing to report.

Sewer: Nothing to report.

Gill Elementary Well: Following a recommendation from the DEP, another water sample from the well will be taken this week. The results will be used to inform the design for the treatment system. After the sample is collected, hand chlorination of the well will resume until the treatment system is operational. Ray reported Wright-Pierce expects to submit their report to USDA this week. Ray noted continued difficulty in reaching Glen Ayers, however, Randy explained that Ayers has recently been ill but is now back at work.

Mariamante/Community Solar: Nothing to report.

Annual Reports: Ray reported he has done a few more hours of proofreading.

FY17 MIIA Grant Application: The Selectboard discussed the FY17 Loss Control and Risk Management Grant that is available through MIIA, the Town's insurance company. The deadline to apply is October 28<sup>th</sup>, and the Town can apply for a maximum of \$15,000. In previous years the grant would pay for a review and update of personnel policies, however that category was discontinued this year. Ray has asked MIIA to reconsider, as it is an important project for Gill. The Selectboard strongly support an application for an emergency shower & eyewash station for the Highway Department, and suggested checking with MIIA to see if grant funds could be used to pay the presenter at an all boards training workshop on the new Public Records Law. The Selectboard also suggested asking about applying for a solar-operated "Your Speed Is" sign. The sign would slow traffic, thereby decreasing the risk of pedestrian accidents and reducing the likelihood of the Town getting sued. Ray also expects that the Police Department will apply for funds to purchase dash cameras for the police cruisers.

Warrant: The Selectboard reviewed and signed the FY 2017 warrant #3.

The meeting adjourned at 7:15 PM.

*Minutes respectfully submitted by Ray Purington, Administrative Assistant.*



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Randy Crochier, Selectboard Clerk



**KME-NY**  
**68 Sicker Road**  
**Latham, NY 12110**

Estimator: John Cameron (518) 785-0900

P72-4-F37

Original Issue Date: 3/23/12

Revision: 1

Revision Date: 4/4/14

**ESTIMATE OF REPAIRS**

Below is an estimate based on our initial inspection and does not include any additional labor, services, parts and or repairs that may be required after commencement of such labor, services, parts and or repairs. It is impossible to furnish an exact estimate without completely disassembling and inspecting the subject vehicle. Occasionally, after commencement of such labor, services and or repairs, damaged, worn or broken parts may be discovered which were not evident during the initial inspection, which will subsequently be quoted as a supplement to the initial estimate. Consequently, we do NOT guarantee the below estimate. Estimate prices for replacement parts are subject to change and also are NOT guaranteed. As an additional service to your Department, we are able to provide pick up and delivery of your apparatus, for a rate of \$50 per hour for two drivers plus the cost of fuel, at the convenience of your Department's schedule

SHOP MANAGER: John Cameron		(518) 378-3933			
PARTS Department: Tom Watkins or Emilio Zapata		(518) 785-0900			
Date:	7/27/2016				
Customer:	Gill FD	Contact Name/Number:			
Manufacturer:	KME Engine	Model Year: 1987			
Truck GSO OR Identification Number:	E-1/0279				
<b>REPAIRS FROM CHASSIS SERVICE</b>					
Item	Qty.	Item / Material Description / Work to be completed	Material Ea.	Material Total	Labor
1		Driver headlight marker damaged		\$15.00	0.5
2		Engine compartment light broken		\$15.00	0.5
3		Engine dog house assembly is loose			1
4		Rear step light does not work		\$40.00	0.5
5		Screws missing on the rear step assembly			1.5
5		Windshield wiper knob missing (10), torn passenger seat cushion (85), cab door gaskets are torn (25), both jump seat dome lights do not work (15 ea)		\$150.00	3
6		Cab spot lights do not work (20), driver washer nozzle is broken (15)		\$35.00	2
7		Driver #2 compartment door handle is installed inverted. Driver #1 door stay is broken		\$35.00	1.5
8		Both driver high side compartments have one lock assembly that sticks in the open position.	\$62.26	\$124.52	1
9		Officer engineer compt light, pump house light, Passenger #1 compt, Passenger #1 high side compt light	\$15.00	\$60.00	1.5
10		Passenger #2 compt light, rear compt light, driver engineer #1 and #2 highside, #2 compt lights all do not work	\$15.00	\$75.00	2
11		Pinion seal leaking, differential oil is contaminated with water		\$50.00	4
12		Inside rear dual tires need valve stem extension for proper access		\$15.00	3
<b>Total Material Cost</b>				<b>\$614.52</b>	
<b>Total Labor Hours</b>					<b>22</b>
<b>Total Labor Cost @ \$85.00 per hour</b>				<b>\$1,870.00</b>	
<b>TOTAL ESTIMATED REPAIR COST</b>				<b>\$2,484.52</b>	

**AUTHORIZATION**

By signature above, we authorize and instruct Kovatch Mobile Equipment, KME Fire Apparatus, to perform the labor, services and repairs set forth and to furnish and provide such replacement parts and materials as are required in connection with such services. We agree that you are not responsible for damage to the subject vehicle or to any personal property therein due to fire, theft, flood, or any cause beyond your control or for any delays caused by the unavailability of replacement parts or any delays caused by suppliers or transporters. We grant you and your employees the right to operate the subject vehicle on streets, highways, or elsewhere in your discretion for the purpose of testing and inspecting subject vehicle. We acknowledge that if we direct you to cease such labor, services and repairs prior to completion, we are fully responsible for the payment of your completed labor, services and repairs and any cost and expense of disassembly and reassembly required.

**Note: Estimated pricing good for 60 days from date noted above.**

Warranty on repairs listed above only:

90 days

Note: Two signatures are required. 1 Fire Officer and 1 Administrative Officer or Insurance Carrier Representative.

Phone number :

Customer Name :

Sign:

Customer Name :

Sign:

Please return authorized quote to: KME-NY, 68 Sicker Road, Latham NY 12110 Attn.: Kristi Mance. Contact #: (518) 785-0900 or Scan /  
Email it back to [Kmance@kovatch.com](mailto:Kmance@kovatch.com)

In printed form, this document is an Uncontrolled Documents unless stamped Controlled Copy in Red.



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PARTS Department: Tom Watkins or Emilio Zapata		(518) 785-0900
Date:	7/27/2016	
Customer:	Gill FD	Contact Name/Number:
Manufacturer:	KME Engine	Model Year: 1987
Truck GSO OR Identification Number:		

Item	Qty.	Item / Material Description / Work to be completed	Material Ea.	Material Total	Labor
1		#3 Discharge leaking		\$100.00	2.5
2		Pump packing can not be adjusted		\$150.00	5
3		Relieft valve is erratic & leaks while in use- (TPM Kit)		\$45.00	4
4		Primer valve sticks in the on position (O-ring kit)		\$25.00	2
5		Front suction drain does not work		\$75.00	1
6		#2, #3, deck gun , #2 preconnect gauges all leaking oil	\$95.00	\$380.00	3
7		2 pump panel lights do not work	\$20.00	\$40.00	2
8		pump panel light switch rubber boot is town		\$6.00	0.5
9		front suction does not work- (valve?)		\$120.00	4
10		driver pump panel is loose			0.5
<b>Total Material Cost</b>				<b>\$941.00</b>	
<b>Total Labor Hours</b>					<b>24.5</b>
<b>Total Labor Cost @ \$85.00 per hour</b>				<b>\$2,082.50</b>	
<b>TOTAL ESTIMATED REPAIR COST</b>				<b>\$3,023.50</b>	

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Warranty on repairs listed above only: 90 days

Note: Two signatures are required. 1 Fire Officer and 1 Administrative Officer or Insurance Carrier Representative.

Phone number :

Customer Name :

Sign:

Customer Name :

Sign:

Please return authorized quote to: KME-NY, 68 Sicker Road, Latham NY 12110 Attn.: Kristi Mance. Contact #: (518) 785-0900 or Scan / Email it back to Kmance@kovatch.com

## SUMMARY OF NEW PUBLIC RECORDS LAW

- **Takes effect** on January 1, 2017.
- Creates a new position entitled **Records Access Officer (RAO)**.
  - A. **Municipality must designate** one or more RAO's.
  - B. RAO is **responsible for coordinating responses** to public records requests.
  - C. RAO **must establish guidelines** to assist requestors in making informed requests and post said guidelines on the municipal website by July 1, 2017.
  - D. RAO's appropriate contact information must be posted on the municipal website.
- **Requests** must be in writing and made to the RAO by hand delivery, first class mail or email.
  - A. **Within 10 business days** after receipt of request, RAO must either:
    - 1. **Allow inspection or provide a copy** of the public record, if the record is reasonably described, in possession of the municipality and a reasonable fee is paid; or
    - 2. Indicate that the municipality (1) **does not intend to allow inspection or provide a copy** and include reason why it cannot comply or if there is an exemption, or (2) it cannot comply within the 10 business day period deadline due to burden (**municipalities may be allowed an additional 15 business days to comply**). This response must be made in writing via first class mail or email.
  - B. Municipality may petition the Supervisor of Public Records for **additional time** beyond the 25 day period.
  - C. The requester **cannot be required to state the reasons for the request**, except to determine if it is for a commercial purpose or to evaluate a fee waiver.
- **Reasonable Fees** may be charged unless the record is freely available for public inspection.
  - A. Copies are limited to **5 cents per page**, for black and white copies.
  - B. Employee time can be charged if the time exceeds 2 hours (i.e. search, retrieval, segregation, redaction and production) and is limited to the hourly rate of the lowest paid employee capable of performing the task limited to \$25.00 per hour.
  - C. Fees may be charged only if RAO responds within the 10 business days.
- **Electronic Records** – Records must be produced electronically, unless records are not stored electronically or the requester is unable to receive/access electronic records.
  - A. Records must be provided in a format desired by the requestor, to the extent feasible.
  - B. Municipal RAO's must post commonly available electronic records on the **municipal website**, to the extent feasible.

- RAO must **keep track of the information** related to requests and said information is to be collected by the Secretary of the Commonwealth annually and published on its website and reported to the Clerks of the House of Representatives and Senate.
- **Remedies** provided under new law include:
  - A. Requestor may petition the Supervisor of Public Records for a decision if municipality does not comply or provides a response in violation of the Public Records Law.
  - B. Requestor may seek judicial review of the decision of the Supervisor of Public Records.
  - C. If a civil action is commenced in Superior Court:
    1. An injunction may be issued;
    2. Reasonable Attorney's fees and costs may be awarded.
- **Storage of Public Records:** an electronic system or database must provide data in a commonly available electronic format to provide maximum public access.
- **Personal email addresses** of government employees and family members are included in Exemptions to public records.

This document merely summarizes the main points of the new public records law and is not meant to be a complete outline of every change to the public records law.

6/7/2016

**PUBLIC RECORDS PROCEDURE CHECKLIST  
FOR RECORDS ACCESS OFFICER(S) of MUNICIPALITIES**

**An Act to Improve Public Records  
Chapter 121, Acts of 2016**

Chapter 121, Acts of 2016 (the “Public Records Act”) was enacted by the Massachusetts Legislature and signed into law by Governor Baker on June 3, 2016. Most of its provisions become effective on January 1, 2017. The Public Records Act inserts a new section 6A into G. L. c. 66 (the Public Records Law) that requires for the first time that each municipality designate one or more Records Access Officers (RAOs) to assist records requestors, to coordinate responses to requests and to prepare guidelines for access to public records held by the municipality. The municipal clerk, his or her designees and any other persons appointed by the Chief Executive of the municipality, serve as RAOs for the municipality. This checklist is intended to provide a starting point for municipal RAOs to comply with the minimum statutory procedures required by the Public Records Act. The statute prevails over any inconsistencies in this checklist due to paraphrasing of requirements. This checklist may be supplemented or superseded by regulations to be promulgated by the Supervisor of Public Records.

**1. Receipt of Request for Public Records**

- a. Verify request received by hand, by mail or by email. RAO may ask that verbal requests be put in writing in order to be received by hand.<sup>1</sup>
- b. Review request to determine if records “reasonably described.”<sup>2</sup> RAO may request clarification from requestor.
- c. Document nature of request and date received.<sup>3</sup>
- d. Determine and record due date for production of records or response (10 business days from receipt).<sup>4</sup>

**2. Initial Processing of Request prior to 10<sup>th</sup> Business Day.**

- a. Do records requested exist within the possession, custody of control of the municipality or municipal agency for which RAO is responsible?<sup>5</sup>
- b. If RAO is responsible for a department or agency within the municipality, should requestor be referred to RAO of another department, or to the municipal clerk?

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<sup>1</sup> G. L. c. 66, §10(a), as amended by St. 2016, c. 121. Subsequent citations will be made to G. L. c. 66 only, which will be assumed to include the amendments to that chapter made by St. 2016, c. 121.

<sup>2</sup> G. L. c. 66, §10(a)(i).

<sup>3</sup> G. L. c. 66, §6A(e).

<sup>4</sup> G. L. c. 66, §10(a).

<sup>5</sup> G. L. c. 66, §10(a)(ii).



- c. Send copy of request, and/or contact municipal employees and board members who may have custody of requested records.
- d. If records exist, how many business days will likely be required to search, compile and reproduce records? The RAO has the right to an additional 15 business days after the initial 10 business days, if the magnitude or difficulty of the request, or multiple requests from the same requestor, unduly burdens the other responsibilities of the municipality and therefore the municipality is unable to produce the records within 10 business days of the request. Therefore, consider the following:
  - i. Based on nature of request, assess magnitude (volume) of requested records.
  - ii. Based on nature of request, assess difficulty of compliance with request.
  - iii. Determine whether records likely to be found in multiple locations, or held by multiple persons.
  - iv. Has requestor made multiple recent requests?
  - v. Are email records requested? Make preliminary determination of search methodology or search terms for responsive email records and resulting volume or difficulty in producing them.
  - vi. Based on nature of request, will any requested records likely be withheld as exempt or attorney-client privileged?
  - vii. Will substantial redaction of records be necessary to protect exempt or privileged material?
  - viii. Will other immediate responsibilities and priorities limit the availability or time of staff or other persons, such as volunteer board members, who are needed to fulfill request, and therefore impair ability to respond to records request within 10 business days?
  - ix. Determine if fee should be assessed requestor (see Section 7 on fees).
  - x. If fee is to be assessed, estimate amount of fee.
- e. If available as electronic records, records should be provided to requestor in the requested electronic format or in a standard, machine searchable electronic format, unless records are held only as paper records, or requestor is unable to receive or access electronic records.<sup>6</sup>
  - i. Are records held in electronic media, or only as paper hard copies?
  - ii. Has requestor specified that electronic records should be provided in any particular electronic format?
  - iii. Has requestor indicated inability to receive or access records if provided in electronic format?
- f. If more than 10 business days are likely to be needed to comply with request, or if records will likely be withheld or redacted, draft response letter to requestor.

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<sup>6</sup> G. L. c. 66, §6A(d).

### 3. Production of Records

- a. If no additional time beyond 10 business days will be needed nor records withheld or redacted, communicate to requestor no later than the 10<sup>th</sup> business day that records are ready for inspection, retrieval or delivery.
- b. When records are available on public website, provide access information to requestor for such records.<sup>7</sup>
- c. Collect fee, if any, prior to providing records to requestor.<sup>8</sup>
- d. Make records available for inspection, for pickup or for delivery, as the requestor requests, in electronic format unless exceptions to production in electronic format apply.<sup>9</sup>
- e. Document date records provided, number of hours of all municipal employees and board members to fulfill request, and fees, if any, charged.<sup>10</sup>

### 4. Additional Time for Production and Withholding Records

- a. When additional time is needed to produce the records, or records are to be withheld (or redacted), send letter by mail or email to be received by requestor no later than 10<sup>th</sup> business day after receipt of request. Letter should include the following:<sup>11</sup>
  - i. Confirm receipt of request;
  - ii. Identify records or categories of records not within municipality's possession, custody or control;
  - iii. Identify any other agency, if known, that may hold records requested;
  - iv. Identify records, categories or portions of records intended to be withheld and reasons and specified exemptions for non-disclosure; if subsequent detailed review of records reveals additional records, categories or portions of records to be withheld or redacted in accordance with state and federal law, supplement this response to identify such records and reasons for non-disclosure;
  - v. Identify records, categories and portions of records to be produced, and describe in detail why magnitude or difficulty of request unduly burdens other responsibilities of municipality and therefore requires additional time to produce the records;
  - vi. Identify a reasonable timeframe to produce records sought, not to exceed 25 business days from the initial receipt of request, or a later date agreed to by requestor;

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<sup>7</sup> G. L. c. 6A(d).

<sup>8</sup> G. L. c. 66, §10(a)(iii).

<sup>9</sup> G. L. c. 66, §6A(d).

<sup>10</sup> G. L. c. 6A(e).

<sup>11</sup> G. L. c. 66, §10(b)

- vii. Suggest a reasonable modification of the scope of the request if records could then be produced more efficiently and affordably;
- viii. Provide an itemized, good faith estimate of fees, if any, to be charged;
- ix. Include statement of requestor's appeal rights to Supervisor of Records and to Superior Court.

b. RAO should consider seeking assistance of counsel to review this letter.

#### **5. Appeal by RAO to Supervisor of Records for More Time<sup>12</sup>**

- a. If more than 25 business days will be needed to comply with the request, the RAO should make such a determination no later than the 20<sup>th</sup> business day after receipt of the request (or within 10 business days of a determination by the Supervisor of Records that a withheld record must be produced).
- b. The RAO should draft and submit a written petition to the Supervisor of Records no later than the 20<sup>th</sup> business day after the receipt of the request.
- c. The RAO should consider whether to seek assistance of counsel to draft petition.
- d. The RAO's petition for additional time should include any of the following information that supports the need for additional time:
  - i. The time estimated to search for, collect, examine and redact records;
  - ii. The scope of redaction required to prevent unlawful disclosure;
  - iii. The capacity and normal hours of business of the municipality to fulfill the request without the extension of time;
  - iv. Efforts already undertaken to fulfill the current and previous requests;
  - v. Whether the current and any previous requests are frivolous or intended to harass or intimidate the municipality;
  - vi. The public interest, or absence of public interest, in producing the documents more quickly.
- e. The RAO shall provide a copy of the written petition to the requestor.
- f. The Supervisor of Records is to decide such appeal within 5 business days.
- g. Records should be produced within time ordered by Supervisor.

#### **6. Documentation of other appeals**

The RAO should document:

- a. Petitions by the municipality to increase fees chargeable to the requestor;
- b. Petitions by the requestor to the Supervisor of Records;
- c. Time spent to comply with an order of the Supervisor of Records;
- d. Final judgments in civil actions filed by requestors in court.<sup>13</sup>

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<sup>12</sup> G. L. c. 66, §10(c).

<sup>13</sup> G. L. c. 66, §6A(e).

7. Fees<sup>14</sup>

- a. Costs that may be included in fee for records production:
  - i. Cost of storage device
  - ii. \$.05/page of materials printed in black and white (both single and double sided pages).
  - iii. Hourly rate of lowest paid employee with necessary skill to compile, segregate, redact and reproduce records not to exceed \$25/hour unless approved upon petition to Supervisor of Records
  - iv. Employee time may include outside vendor time
- b. Costs that may not be included in fee for records production
  - i. Municipalities with populations over 20,000 may not charge for first two hours of staff time.
  - ii. Staff time for segregation and redaction unless required by law or approved by Supervisor of Records.
- c. Petition to Supervisor for fee adjustments.
  - i. Hourly rates in excess of \$25/hour
  - ii. Time spent for segregation and redaction when not required by law.
  - iii. Grounds for Supervisor to grant adjustment:
    1. For requests commercial in nature, or
    2. Fee represents actual good faith cost of compliance, request could not have been prudently completed without redaction or increase in hourly rate, fee is reasonable and not designed to limit access to public records.
    3. Supervisor shall also consider public interest in limiting fees charged and financial ability of requestor to pay additional fees.
- d. Waiver of fees by RAO
  - i. if disclosure of records is in public interest
  - ii. if records request not primarily in commercial interest of requestor
  - iii. upon showing of financial hardship of requestor to pay full fee
- e. Denial of records to requestor who has failed to pay for previously produced records; RAO provides written denial and itemized balance of fees still owed.
- f. Forfeiture of fees: If Court awards attorneys fees to requestor who successfully obtains judicial relief in litigation, fees for production of records also forfeited.<sup>15</sup>

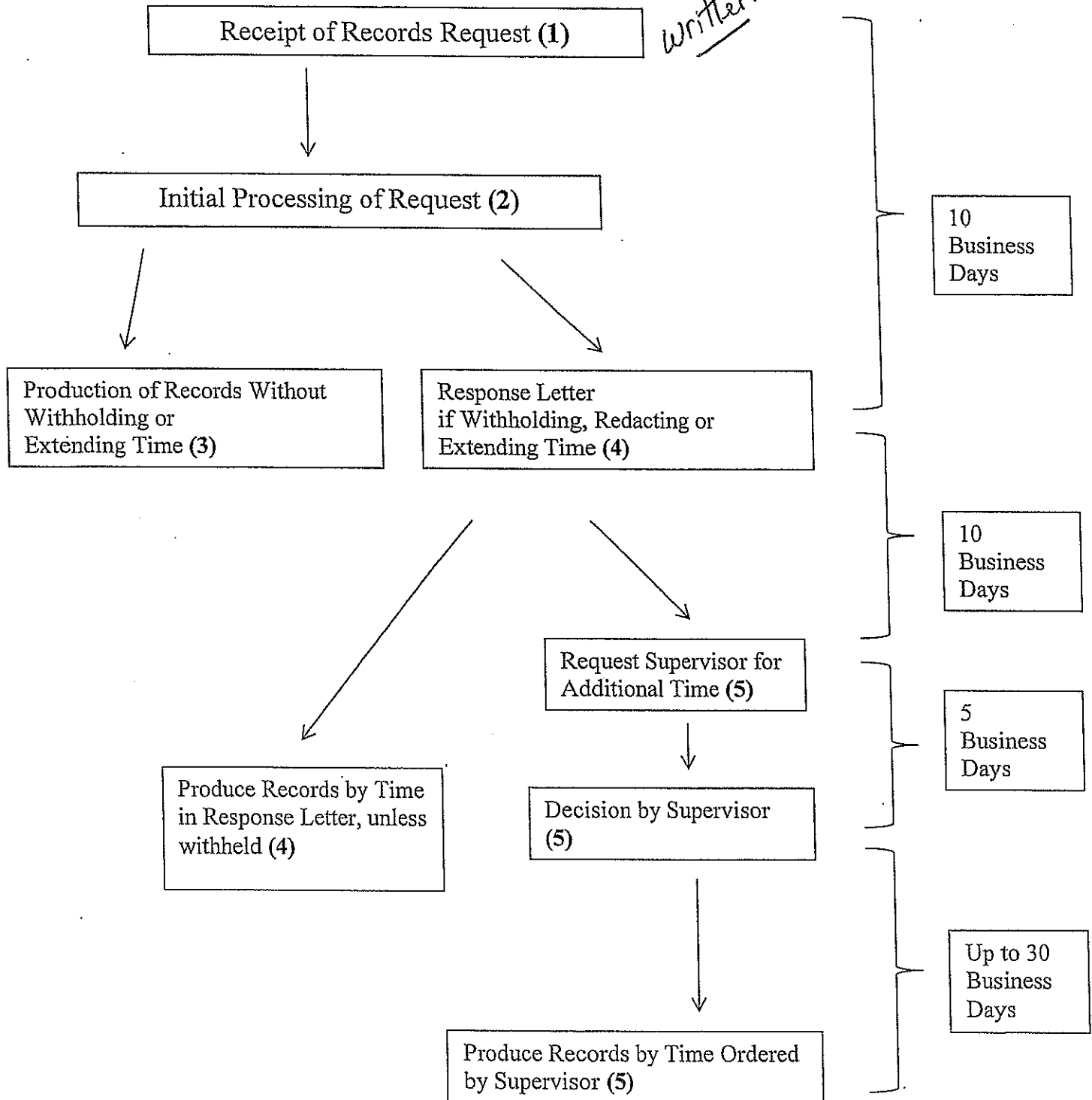
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<sup>14</sup> G. L. c. 66, §10(d).

<sup>15</sup> G. L. c. 66, §10A(d)(3).

### Flow Chart of Procedures Under Public Records Law

*written only*



## Chapter 121 of the Acts of 2016 – Sections 10 and 10A

### SECTION 10

#### Subsection 10(a)

A records access officer appointed pursuant to section 6A, or a designee, shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record as defined in clause twenty-sixth of section 7 of chapter 4, or any segregable portion of a public record, not later than 10 business days following the receipt of the request, provided that:

- (i) the request reasonably describes the public record sought;
- (ii) the public record is within the possession, custody or control of the agency or municipality that the records access officer serves; and
- (iii) the records access officer receives payment of a reasonable fee as set forth in subsection (d).

A request for public records may be delivered to the records access officer by hand or via first class mail at the record officer's business address, or via electronic mail to the address posted by the agency or municipality that the records access officer serves.

### SECTION 10

#### Subsection 10(b)

If the agency or municipality does not intend to permit inspection or furnish a copy of a requested record, or the magnitude or difficulty of the request, or of multiple requests from the same requestor, unduly burdens the other responsibilities of the agency or municipality such that the agency or municipality is unable to do so within the timeframe established in subsection (a), the agency or municipality shall inform the requestor in writing not later than 10 business days after the initial receipt of the request for public records. The written response shall be made via first class or electronic mail and shall:

- (i) confirm receipt of the request;
- (ii) identify any public records or categories of public records sought that are not within the possession, custody, or control of the agency or municipality that the records access officer serves;
- (iii) identify the agency or municipality that may be in possession, custody or control of the public record sought, if known;
- (iv) identify any records, categories of records or portions of records that the agency or municipality intends to withhold, and provide the specific reasons for such withholding, including the specific exemption or exemptions upon which the withholding is based, provided that nothing in the written response shall limit an agency's or municipality's ability to redact or withhold information in accordance with state or federal law;
- (v) identify any public records, categories of records, or portions of records that the agency or municipality intends to produce, and provide a detailed statement describing why the magnitude or difficulty of the request unduly burdens the other responsibilities of the agency or municipality and therefore requires additional time to produce the public records sought;
- (vi) identify a reasonable timeframe in which the agency or municipality shall produce the public records sought; provided, that for an agency, the timeframe shall not exceed 15 business days following the initial receipt of the request for public records and for a municipality the timeframe shall not exceed 25 business days following the initial receipt of the request for public records; and provided further, that the requestor may voluntarily agree to a response date beyond the timeframes set forth herein;
- (vii) suggest a reasonable modification of the scope of the request or offer to assist the requestor to modify the scope of the request if doing so would enable the agency or municipality to produce records sought more efficiently and affordably;
- (viii) include an itemized, good faith estimate of any fees that may be charged to produce the records; and
- (ix) include a statement informing the requestor of the right of appeal to the supervisor of records under subsection (a) of section 10A and the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court under subsection (c) of section 10A.

### SECTION 10

#### Subsection 10(c)

If the magnitude or difficulty of a request, or the receipt of multiple requests from the same requestor, unduly burdens the other responsibilities of the agency or municipality such that an agency or municipality is unable to complete the request within the time provided in clause (vi) of subsection (b), a records access officer may, as soon as practical and within 20 business days after initial receipt of the request, or within 10 business days after receipt of a determination by the supervisor of public records that the requested record constitutes a public record, petition the supervisor of records for an extension of the time for the agency or municipality to furnish copies of the requested record, or any portion of the requested record, that the agency or municipality has within its possession, custody or control and intends to furnish. The records access officer shall, upon submitting the petition to the supervisor of records, furnish a copy of the petition to the requestor. Upon a showing of good cause, the supervisor of records may grant a single extension to an agency not to

exceed 20 business days and a single extension to a municipality not to exceed 30 business days. In determining whether the agency or municipality has established good cause, the supervisor of records shall consider, but shall not be limited to considering:

- (i) the need to search for, collect, segregate or examine records;
- (ii) the scope of redaction required to prevent unlawful disclosure;
- (iii) the capacity or the normal business hours of operation of the agency or municipality to produce the request without the extension;
- (iv) efforts undertaken by the agency or municipality in fulfilling the current request and previous requests;
- (v) whether the request, either individually or as part of a series of requests from the same requestor, is frivolous or intended to harass or intimidate the agency or municipality; and
- (vi) the public interest served by expeditious disclosure.

If the supervisor of records determines that the request is part of a series of contemporaneous requests that are frivolous or designed to intimidate or harass, and the requests are not intended for the broad dissemination of information to the public about actual or alleged government activity, the supervisor of records may grant a longer extension or relieve the agency or municipality of its obligation to provide copies of the records sought. The supervisor of records shall issue a written decision regarding a petition submitted by a records access officer under this subsection within 5 business days following receipt of the petition. The supervisor of records shall provide the decision to the agency or municipality and the requestor and shall inform the requestor of the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court.

## **SECTION 10**

### **Subsection 10(d)**

A records access officer may assess a reasonable fee for the production of a public record except those records that are freely available for public inspection. The reasonable fee shall not exceed the actual cost of reproducing the record. Unless expressly provided for otherwise, the fee shall be determined in accordance with the following:

(i) the actual cost of any storage device or material provided to a person in response to a request for public records under subsection (a) may be included as part of the fee, but the fee assessed for standard black and white paper copies or printouts of records shall not exceed 5 cents per page, for both single and double-sided black and white copies or printouts;

(ii) if an agency is required to devote more than 4 hours of employee time to search for, compile, segregate, redact or reproduce the record or records requested, the records access officer may also include as part of the fee an hourly rate equal to or less than the hourly rate attributed to the lowest paid employee who has the necessary skill required to search for, compile, segregate, redact or reproduce a record requested, but the fee (A) shall not be more than \$25 per hour; (B) shall not be assessed for the first 4 hours of work performed; and (C) shall not be assessed for time spent segregating or redacting records unless such segregation or redaction is required by law or approved by the supervisor of records under clause (iv);

(iii) if a municipality is required to devote more than 2 hours of employee time to search for, compile, segregate, redact or reproduce a record requested, the records access officer may include as part of the fee an hourly rate equal to or less than the hourly rate attributed to the lowest paid employee who has the necessary skill required to search for, compile, segregate, redact or reproduce the record requested but the fee (A) shall not be more than \$25 per hour unless such rate is approved by the supervisor of records under clause (iv); (B) shall not be assessed for the first 2 hours of work performed where the responding municipality has a population of over 20,000 people; and (C) shall not be assessed for time spent segregating or redacting records unless such segregation or redaction is required by law or approved by the supervisor of records under clause (iv);

(iv) the supervisor of records may approve a petition from an agency or municipality to charge for time spent segregating or redacting, or a petition from a municipality to charge in excess of \$25 per hour, if the supervisor of records determines that (A) the request is for a commercial purpose; or (B) the fee represents an actual and good faith representation by the agency or municipality to comply with the request, the fee is necessary such that the request could not have been prudently completed without the redaction, segregation or fee in excess of \$25 per hour and the amount of the fee is reasonable and the fee is not designed to limit, deter or prevent access to requested public records; provided, however, that:

1. in making a determination regarding any such petition, the supervisor of records shall consider the public interest served by limiting the cost of public access to the records, the financial ability of the requestor to pay the additional or increased fees and any other relevant extenuating circumstances;
2. an agency or municipality, upon submitting a petition under this clause, shall furnish a copy of the petition to the requestor;
3. the supervisor of records shall issue a written determination with findings regarding any such petition within 5 business days following receipt of the petition by the supervisor of public records; and
4. the supervisor of records shall provide the determination to the agency or municipality and the requestor and shall inform the requestor of the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court;

(v) the records access officer may waive or reduce the amount of any fee charged under this subsection upon a showing that disclosure of a requested record is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the

requestor, or upon a showing that the requestor lacks the financial ability to pay the full amount of the reasonable fee;

- (vi) the records access officer may deny public records requests from a requester who has failed to compensate the agency or municipality for previously produced public records;
- (vii) the records access officer shall provide a written notification to the requester detailing the reasons behind the denial, including an itemized list of any balances attributed to previously produced records;
- (viii) a records access officer may not require the requester to specify the purpose for a request, except to determine whether the records are requested for a commercial purpose or whether to grant a request for a fee waiver; and
- (ix) as used in this section "commercial purpose" shall mean the sale or resale of any portion of the public record or the use of information from the public record to advance the requester's strategic business interests in a manner that the requester can reasonably expect to make a profit, and shall not include gathering or reporting news or gathering information to promote citizen oversight or further the understanding of the operation or activities of government or for academic, scientific, journalistic or public research or education

**SECTION 10**

**Subsection 10(e)**

A records access officer shall not charge a fee for a public record unless the records access officer responded to the requestor within 10 business days under subsection (b).

**SECTION 10**

**Subsection 10(f)**

As used in this section, "employee time" means time required by employees or necessary vendors, including outside legal counsel, technology and payroll consultants or others as needed by the municipality.

**SECTION 10A**

**Subsection 10A(a)**

If an agency or municipality fails to comply with a requirement of section 10 or issues a response the requestor believes in violation of section 10, the person who submitted the initial request for public records may petition the supervisor of records for a determination as to whether a violation has occurred. In assessing whether a violation has occurred, the supervisor of records may inspect any record or copy of a record in camera; provided, however, that where a record has been withheld on the basis of a claim of the attorney-client privilege, the supervisor of records shall not inspect the record but shall require, as part of the decision making process, that the agency or municipality provide a detailed description of the record, including the names of the author and recipients, the date, the substance of such record, and the grounds upon which the attorney-client privilege is being claimed. If an agency or municipality elects to provide a record, claimed to be subject to the attorney-client privilege, to the supervisor of records for in camera inspection, said inspection shall not waive any legally applicable privileges, including without limitation, the attorney-client privilege and the attorney work product privilege. The supervisor of records shall issue a written determination regarding any petition submitted in accordance with this section not later than 10 business days following receipt of the petition by the supervisor of records. Upon a determination by the supervisor of records that a violation has occurred, the supervisor of records shall order timely and appropriate relief. A requestor, aggrieved by an order issued by the supervisor of records or upon the failure of the supervisor of records to issue a timely determination, may obtain judicial review only through an action in superior court seeking relief in the nature of certiorari under section 4 of chapter 249 and as prescribed in subsection (d).

**SECTION 10A**

**Subsection 10A(b)**

If an agency or municipality refuses or fails to comply with an order issued by the supervisor of records, the supervisor of records may notify the attorney general who, after consultation with the supervisor of records, may take whatever measures the attorney general considers necessary to ensure compliance. If the attorney general files an action to compel compliance, the action shall be filed in Suffolk superior court with respect to state agencies and, with respect to municipalities, in the superior court in the county in which the municipality is located. The attorney general shall designate an individual within the office of the attorney general to serve as a primary point of contact for the supervisor of records. In addition to any other duties the attorney general may impose, the designee shall serve as a primary point of contact within the office of the attorney general regarding notice from the supervisor of records that an agency or municipality has refused or failed to comply with an order issued by the supervisor of records.

**SECTION 10A**

**Subsection 10A(c)**

Notwithstanding the procedure in subsections (a) or (b), a requestor may initiate a civil action to enforce the requirements of this chapter. Any action under this subsection shall be filed in Suffolk superior court with respect to agencies and, with respect to municipalities, in the superior court in the county in which the municipality is located. The superior court shall have available all remedies at law or in equity; provided, however, that any damages awarded shall be consistent with subsection (d).

**SECTION 10A**

**Subsection 10A(d)**

(1) In any action filed by a requestor pursuant to this section:

- (i) the superior court shall have jurisdiction to enjoin agency or municipal action;
- (ii) the superior court shall determine the propriety of any agency or municipal action de novo and may inspect the contents of any defendant agency or municipality record in camera, provided, however, that the in camera



review shall not waive any legally applicable privileges, including without limitation, the attorney-client privilege and the attorney work product privilege;

(iii) the superior court shall, when feasible, expedite the proceeding;

(iv) a presumption shall exist that each record sought is public and the burden shall be on the defendant agency or municipality to prove, by a preponderance of the evidence, that such record or portion of the record may be withheld in accordance with state or federal law.

(2) The superior court may award reasonable attorney fees and costs in any case in which the requester obtains relief through a judicial order, consent decree, or the provision of requested documents after the filing of a complaint. There shall be a presumption in favor of an award of fees and costs unless the agency or municipality establishes that:

(i) the supervisor found that the agency or municipality did not violate this chapter;

(ii) the agency or municipality reasonably relied upon a published opinion of an appellate court of the commonwealth based on substantially similar facts;

(iii) the agency or municipality reasonably relied upon a published opinion by the attorney general based on substantially similar facts;

(iv) the request was designed or intended to harass or intimidate; or

(v) the request was not in the public interest and made for a commercial purpose unrelated to disseminating information to the public about actual or alleged government activity.

If the superior court determines that an award of reasonable attorney fees or costs is not warranted, the judge shall issue written findings specifying the reasons for the denial.

(3) If the superior court awards reasonable attorneys' fees and other litigation costs reasonably incurred to the requestor, it shall order the agency or municipality to waive any fee assessed under subsection (d) of section 10. If the superior court does not award reasonable attorneys' fees and other litigation costs reasonably incurred to the requestor, it may order the agency or municipality to waive any fee assessed under said subsection (d) of said section 10. Whether the superior court determines to waive any fee assessed under said subsection (d) of said section 10, it shall issue findings specifying the basis for such decision.

(4) If a requestor has obtained judgment in superior court in a case under this section and has demonstrated that the defendant agency or municipality, in withholding or failing to timely furnish the requested record or any portion of the record or in assessing an unreasonable fee, did not act in good faith, the superior court may assess punitive damages against the defendant agency or municipality in an amount not less than \$1,000 nor more than \$5,000, to be deposited into the Public Records Assistance Fund established in section 35DDD of chapter 10.

## **SECTION 10A**

### **Subsection 10A(e)**

Notwithstanding any other provision of this chapter, the attorney general may, at any time, file a complaint in Suffolk superior court with respect to agencies and, with respect to municipalities, in the superior court in the county in which the municipality is located, to ensure compliance with this chapter and may further intervene as of right in any action filed in accordance with this section. In any action filed or in which the attorney general has intervened under this subsection, paragraphs (1) and (4) of subsection (d) shall apply and any public records the court orders produced shall be provided without a fee.



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## FY17 MIIA GRANT APPLICATION

Check Item	Risk Management Solution	Cost Per Estimate	Target Department	Loss Causes	Best Practices
<b>Automobile</b>					
<input type="checkbox"/> Fleet Maintenance Audit, needs assessment or software <input type="checkbox"/> Backup sensors and cameras			Multiple	Automobile accidents	Annual Driver MVRs Vehicle Telematics Vehicle Maintenance Program
<b>General Liability</b>					
<input type="checkbox"/> Development and implementation of a customized sewer maintenance program (i.e. fats, oil and grease program) <input type="checkbox"/> Systems audits and capital improvements <input type="checkbox"/> GIS implementation for utility infrastructure			DPW Sewer	Sewer backup Water main breaks	Camera video program (sewer lines) Manhole inspection Grease trap bylaw/inspection Pump station inspection
<input type="checkbox"/> Tree Risk Assessment			DPW	Tree related damage	Tree Inventory and or Assessment Program
<input type="checkbox"/> Pavement Management Program to eliminate pothole and sidewalk defects that can lead to liability exposures			DPW	Pothole & sidewalk damage	Pavement Management Program
<input type="checkbox"/> Snow and Ice Removal Program implementation			DPW	Falling Objects/BI & PD	Snow and Ice Removal Plan
<b>Law Enforcement Liability</b>					
<input type="checkbox"/> Body cameras, dash cameras <input type="checkbox"/> Loss targeted training			Police	Wrongful Arrest, Excessive Force	Use of Force & CCTV Policies Training
<b>Property</b>					
<input type="checkbox"/> Facilities maintenance software Facilities maintenance third party audit Facilities winterization needs assessment <input type="checkbox"/> Freeze up prevention equipment (temperature alarms, monitoring equipment and call-out software) <input type="checkbox"/> Implementation of facilities based and systems supported program that allows for immediate identification and access of municipal facilities in case of emergencies.			Multiple	Pipe freeze ups, Ice dams, Sprinkler damage	Facilities maintenance software Roof inspection Roof Snow Removal Plan Ice dam inspection Gutter/downspout inspection Sprinkler testing Thermal image Heat monitoring protocols Pipe freeze inspections
<b>Public Officials Liability</b>					
<input type="checkbox"/> Attend Massachusetts Commission Against Discrimination certified training for professionals. Courses run from January- May			Multiple	Discrimination complaints	Discrimination and harassment training
<b>Workers Compensation</b>					
<input type="checkbox"/> Safety/OSHA related training (aerial lift, bloodborne pathogen, trench safety, confined space entry, CPSI training, chainsaw safety, lockout/ tag out, OSHA 10, work zone safety, etc.) <input type="checkbox"/> Safety Equipment, dollies/carts, slip/fall stations, hoier lifts manhole cover lifts, trench box, hydraulic gate lift, work zone safety trailer, stepstools for classrooms, PPE equipment, back up cameras, ice dam prevention, pallet jack, thermal imaging cameras, skylight guards, slip resistant floor treatments, stools for schools, cots, anti fatigue mats. <input type="checkbox"/> Security assessments and equipment: cameras, panic alarms etc. in relation to municipal emergency response plan (A.L.I.C.E.)			Multiple	Work related injuries Strains, sprains Slip/trip/falls	Annual workplace safety training Claims reporting (timely basis) Return to Work Program Safety Committee



## FY17 MIIA GRANT APPLICATION

This fiscal year, MIIA's Grant program is focused on identifying member loss trends and providing members with resources and solutions to improve their outcome. We believe that effective management can only be achieved through a strong partnership with our members. The MIIA Grant Program provides members with solutions for effective risk management, enhanced safety practices and greater asset preservation.

The Risk Management and Loss Control Grants have been combined into one MIIA grant, allowing up to a limit of \$15,000 per member with a maximum of \$10,000 per item. Kindly follow the process listed below:

1. Consult with your MIIA Risk Manager regarding grant criteria.
2. Ensure that grant application is applicable to your insurance coverage.
3. Complete this application in its entirety. If not completed it will be returned for completion.
4. Attach a vendor estimate for each requested item or service.
5. Ensure Chief Municipal Officer and Chief Procurement Officer have signed application.
6. Submit your application to [miiagrants@mma.org](mailto:miiagrants@mma.org) by grant deadline of October 28, 2016.

**Items that will not be considered include: travel expenses, wages, including overtime, and software annual renewal costs.**

The MIIA Risk Management Team will confirm receipt of your application. Grant applications will be reviewed the week of October 28th. Please note that a grant submission does not guarantee a grant award. If awarded, a grant summary detailing how this award benefits your municipal entity must be included with final grant invoices.

How will this grant be used to continue or enhance your risk management or personnel management efforts moving forward?

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MIIA Member \_\_\_\_\_

Contact \_\_\_\_\_ Department \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_ Date \_\_\_\_\_

By signing and submitting this application, I (we) attest that all applicable state and local purchasing regulations and guidelines have been followed.

\_\_\_\_\_  
Chief Municipal Officer Signature

\_\_\_\_\_  
Chief Procurement Officer Signature