

## INSTRUCTIONS TO COMPLETE UIPA RECORD REQUEST LOG

October 11, 2012

### WHAT RECORD REQUESTS ARE COVERED BY THIS LOG?

This log applies only to written (including e-mailed) requests purportedly made under Hawaii's Uniform Information Practices Act (UIPA), in which the agency sent out the "Notice to Requester." Requests for government records under Part II of the UIPA and for personal records under Part III of the UIPA should be logged. (See instructions for search, review, and segregation fees for a description of "personal records.")

This log does not apply to subpoenas for discovery of records in court cases. It also does not apply to routine requests, such as requests for UH transcripts or DOH vital records, where the agency has established a fee schedule and the UIPA Notice to Requester is not sent. **The agency, however, is expected to track, on its own, the total number of routine requests that it receives and report the number when the Log is uploaded onto data.hawaii.gov twice a year.**

This log should track any written request for information, if the agency responds by providing or denying access to an agency record. This includes requests for records in physical forms other than paper, such as electronic records or tape recordings.

Additionally, the log should track only requests made by members of the public (individuals and entities) and by government employees acting in their personal, not official, capacity. Do not include requests made by other government agencies, or by agency employees who are making the requests as part of their official duties.

### WHAT "AGENCY" MUST USE THIS LOG?

"Agency" as used in this Log is based on the UIPA definition of "any unit of government" at the state or county level, such as a department, institution, board, commission, division, program, council, bureau, office, etc. For the initial deployment of this Log, only state Executive Branch agencies and the Judiciary are participating.

### HOW AND WHEN WILL THIS LOG BE REPORTED?

The agency will be responsible for electronically uploading the totals from this Log onto data.hawaii.gov twice a year: (1) **by January 31**, to cover requests received by the agency during the semi-annual period from July 1 through December 31, and (2) **by July 31**, to cover requests received during the entire prior fiscal year from July 1 through June 30. There are separate instructions on how agency employees with the proper credentials will upload the agency's Log totals onto the **OIP's Master UIPA Records Request Log on data.hawaii.gov**. After your agency's Log totals are published on data.hawaii.gov, they may be summarized with the results from the other agencies within your department or by all departments, and various reports in the form of charts, maps, graphs, or other visualizations may be created by anyone, including members of the public.

Your agency's uploading of data onto to the Master Log on data.hawaii.gov will replace the annual Report of Statistical Information that agencies used to file with OIP. Obviously, this Log also replaces the log formerly found in OIP's Records Report System

materials.

If you have any questions, please check OIP's training page at [hawaii.gov/oip](http://hawaii.gov/oip), call OIP at (808) 586-1400, or email [oop@hawaii.gov](mailto:oop@hawaii.gov).

## **WHAT DO EACH OF THE DIFFERENT SECTIONS AND COLUMNS MEAN AND HOW SHOULD THE LOG BE FILLED OUT?**

**DEPARTMENT/AGENCY:** It is important to follow the naming protocol identifying "state or county/department/agency name" in this section so that data can later be properly sorted, filtered, searched, and found on [data.hawaii.gov](http://data.hawaii.gov). Once the department name is entered in Column A, then only that department's agencies will appear on the drop-down menu in the agency Column B.

Column A, Department: Please select your specific department from the drop-down list, which can be accessed by hitting the arrow that will appear in the bottom right corner of the "Department" box (A-3). The department will be automatically entered in the "Department" boxes in A-3 and in the row with the yellow highlighted totals. The remaining rows in this column are highlighted in pink because no entry is required.

Column B, Agency: After entering the department, please select your specific agency from the drop-down list, which can be accessed by hitting the arrow that will appear in the bottom right corner of the "Agency" box (B-3). The agency name will be automatically entered in the "Agency" boxes in B-3 and in the row with the yellow highlighted totals. The remaining rows in this column are highlighted in pink because no entry is required. If your agency is not on the drop-down list, please contact OIP at 586-1400 or email [oop@hawaii.gov](mailto:oop@hawaii.gov).

**ALL WRITTEN REQUESTS:** This section is to help the agency identify and track its record requests.

Column C, Numbers: These sequential numbers identify the number of record requests received by an agency. If your agency has more than 1,000 record requests in a fiscal year, please contact OIP for help in adding new rows.

As record requester's names are added in Column D, they will be totaled in the yellow highlighted box above the Column C entries. The total number in Column C should match the number of the last record request.

Column D, Requester Name or File #: A brief description to help the agency identify the specific record request, in case questions arise later. This identifying information will be redacted before uploading onto [data.hawaii.gov](http://data.hawaii.gov).

Note, however, that if the Log is produced in response to a records request, the requester's name is generally not considered confidential information and should not be redacted, except possibly for personal records requesters' names. See OIP Op. Ltr. No. 90-37, or contact OIP for guidance.

Column E, Employee ID: This column is for the name, initials, or employee number of the agency employee who is responsible for resolving the records request, and will be redacted before it is uploaded onto data.hawaii.gov.

Column F, Personal Records Request?: Enter only one “x” per box if the request was a **personal record request** seeking the requester’s own personal information that is readily accessible in a file or location with the requester’s name or identifying information. Improperly entering more than one “x” or another letter in the box will result in the entry not being counted in the column total.

Keep in mind that NOT every request for personal records would be considered a personal record request under Part III of the UIPA. For example, it is NOT a personal records request if the requester seeks records “about” him or her, but the records are not readily accessible because it would require the agency to search through various files not solely dedicated to the requester, e.g., a request for “any of the records in the agency’s possession naming me, John Doe.” Also, a request for an unrelated person’s personal records is NOT a personal records request, e.g., an unrelated third party’s request for President Obama’s birth certificate. Instead, these are examples of government records under Part II of the UIPA, which are subject to different rules.

The “total” box highlighted in yellow above the column entries will count the number of personal record requests received by the agency, which will be reported on data.hawaii.gov.

Column G, Date Agency Received Request: Enter the month, day, and year that the agency received a written or electronic (e-mailed) request for a record. These dates will help the agency to keep track of a request. Although entered by the agency as dates, the “total” box highlighted in yellow above the Column G entries will count the number of record requests received by the agency, which should match with the total number in Column C. The total number of record requests will be reported on data.hawaii.gov.

Column H, Date Agency’s Notice Was Sent: Enter the month, day, and year that the agency sent the UIPA Notice to Requester. (If agency does not have a Notice form, a model form is available in appendix of OIP’s Open Records Guide to Hawaii’s Uniform Information Practices Act or on “Forms” page of OIP’s website at [hawaii.gov/oip](http://hawaii.gov/oip).) The Notice must normally be sent within ten work days of receiving the request. If there are extenuating circumstances and the agency sends an Acknowledgment to Requester, then the agency has 20 work days to send its Notice. Although entered by the agency as dates, the “total” box highlighted in yellow above the column entries will count the number of notices sent to requesters by the agency, which will be reported on data.hawaii.gov.

Column I, Notice or Acknowledgment Sent Within 10 Work Days?: Enter only one “x” if the agency sent a UIPA Notice to Requester or Acknowledgment (for complex cases) within 10 work days (excluding weekends and holidays) of receiving the request. Improperly entering more than one “x” or another letter in the box will result in the entry not being counted in the column total.

**FOR COMPLEX REQUESTS WITH EXTENUATING CIRCUMSTANCES:** This section helps the agency to keep track of the number and status of particularly large or complex record requests. For the procedural requirements in handling such requests,

please review “[OIP’s Informal Guide to Processing Large or Complex Record Requests](#),” which can be found on OIP’s website at [hawaii.gov/oip](http://hawaii.gov/oip) on the Openline/Guidance page.

Column J, Date Agency’s Acknowledgment Was Sent: Enter the month, day, and year that the agency sent an [Acknowledgment to Requester](#) due to extenuating circumstances or voluminous requests that prevent an agency from responding within the normal 10-day time limit to respond to a UIPA request. (A model Acknowledgment form is available in appendix of [OIP’s Open Records Guide to Hawaii’s Uniform Information Practices Act](#) or on the “Forms” page of OIP’s website at [hawaii.gov/oip](http://hawaii.gov/oip).) The Acknowledgment must be sent within ten business days of receiving the request. (See Example 4.)

Although entered by the agency as dates, the “total” box highlighted in yellow will count the number of complex cases, as identified by the number of acknowledgments sent by the agency, and will be reported on [data.hawaii.gov](http://data.hawaii.gov).

Column K, Dates of Agency’s Incremental Responses: Enter the month, day, and year of each incremental response that an agency provides to the requester to fulfill a complex record request. (See Example 4.) Although entered by the agency as dates, the “total” box highlighted in yellow will report the number of complex cases in which the agency sent out incremental responses, which will be reported on [data.hawaii.gov](http://data.hawaii.gov).

**REQUEST RESOLUTION:** This section records when and how requests are resolved. All of the totals in this section will be reported on [data.hawaii.gov](http://data.hawaii.gov).

Column L, Date Completed: Enter the month, day, and year that the agency sent its final response to fulfill each request. If the record was to be picked up by the requester at a later date, the completion date is when the agency had the record ready for pickup. If the agency sent a notice seeking clarification of the request or payment of fees and the requester does not respond within 20 business days, then the request may be presumed to be abandoned and completed as of the agency’s notice date. The “total” number highlighted in yellow in Column L summarizes the number of cases completed by the agency, which will be reported on [data.hawaii.gov](http://data.hawaii.gov).

Column M, Number of Weekdays to Complete: This number is **automatically calculated** based on the number of week days (including holidays) that it takes for the agency to fulfill each request, based on the agency’s entries in Column G (date agency received request) and in Column L (date completed). The total number highlighted in yellow in Column M calculates the **median** number of days that the agency takes to complete record requests, which will be reported on [data.hawaii.gov](http://data.hawaii.gov).

Column N, Request Granted in Full?: Enter only one “x” if the request was granted in its entirety by the agency. Improperly entering more than one “x” or another letter in the box will result in the entry not being counted in the column total.

Column O, Request Denied in Full?: Enter only one “x” if the request was denied in its entirety by the agency. Improperly entering more than one “x” or another letter in the box will result in the entry not being counted in the column total. (Keep in mind that the agency has the burden of justifying its denial under an applicable UIPA exception to the disclosure requirement.)

Column P, Request Denied in Part?: Enter only one “x” if access to all or part of the record was denied by the agency, *e.g.*, if part of the record had to be redacted or withheld. Improperly entering more than one “x” or another letter in the box will result in the entry not being counted in the column total.

Column Q, Agency Unable to Respond to Request?: Enter only one “x” if the agency was initially or ultimately unable to respond to the request. For example, the agency may not have been able to respond because the agency does not maintain the record, the request description was unclear and needed clarification, or the request requires the creation of a summary or compilation of information that is not readily retrievable. An agency may initially mark this box because it cannot respond to an unclear request (thus explaining why the request could not be filled within 10 work days), and may later also check the box for “request granted in full” when it is ultimately able to respond. (See Example 4.) Improperly entering more than one “x” or another letter in a box, however, will result in the entry not being counted in the column total.

Column R, Requester Withdrew?: Enter only one “x” if the requester voluntarily withdrew the request. Improperly entering more than one “x” or another letter in the box will result in the entry not being counted in the column total.

Column S, Requester Abandoned/Failed to Pay?: Enter only one “x” if the requester has abandoned the request through inaction or failure to pay all required fees and costs. The requester may be presumed to have abandoned the request if the requester does not answer within 20 business days of (1) the agency’s notice seeking clarification of the request or payment of fees, or (2) the date that the agency made the record available if reasonable notice thereof had been given to the requester. (See Example 3.) Improperly entering more than one “x” or another letter in the box will result in the entry not being counted in the column total.

Column T, Lawsuit Filed Against Agency?: Enter only one “x” if the request resulted in a lawsuit being filed against the agency because of a dispute over the agency’s response to the record request. Improperly entering more than one “x” or another letter in the box will result in the entry not being counted in the column total. (See Example 4.)

**SEARCH, REVIEW, AND SEGREGATION (SRS) FEES:** This section helps the agency to keep track of its SRS time and will automatically calculate the SRS fees that may be charged. For those needing to be refreshed as to the UIPA’s requirements, an overview of SRS fees is provided below. More comprehensive training videos and guides are available at [hawaii.gov/oip/training](http://hawaii.gov/oip/training).

When an agency has already made a good faith estimate of its SRS fee and will require prepayment of the fees, OIP recommends that the agency delay its actual search, review, and segregation (SRS) until receipt of the prepayment, in order to avoid wasted effort if the requester chooses to narrow or abandon the request.

**SEARCH:** To locate and determine if the agency “maintains” the requested record in its physical possession, or if the record is with another party but under the agency’s administrative control. OIP’s administrative rules allow search fees to be charged at \$2.50 per fifteen minutes or fraction thereof, *i.e.*, \$10 per hour. § 2-71-31(a)(1), H.A.R.

**REVIEW:** To examine a record in order to determine which portions, if any, may be exempt from disclosure. “Review” does not include the time spent by the agency or another person (e.g., attorney) to resolve issues of general law or policy regarding the applicability of exceptions to disclosure. OIP’s administrative rules allow search fees to be charged at \$5.00 per fifteen minutes or fraction thereof, i.e., \$20 per hour. § 2-71-31(a)(1), H.A.R.

**SEGREGATION:** To prepare the record for disclosure by redacting portions exempt from disclosure. Segregation must be done in a way that makes it reasonably apparent that information has been deleted from the record. An agency shall not replace information that has been segregated with information or text that did not appear in the original record. OIP’s administrative rules allow segregation fees to be charged at \$5.00 per fifteen minutes or fraction thereof, i.e., \$20 per hour. § 2-71-31(a)(1), H.A.R.

**PERSONAL RECORDS:** OIP’s administrative rules currently do not permit agencies to charge SRS fees for responding to requests for personal records made under Part III of the UIPA. See instructions under Columns F and AC for definitions of personal record requests.

Even if a record is a personal record for which SRS fees may not be charged, it may be necessary to review and segregate information in that record that is subject to a UIPA exception. Therefore, please log all search, review, and segregation time spent to fulfill personal records requests, so that this data will be available when OIP considers changes to its administrative rules or if the agency needs the data to support its personnel and budget requests.

All of the column totals in this section will be reported on [data.hawaii.gov](http://data.hawaii.gov).

**Column U, Actual Search Hours:** Enter the actual time, and not less than .25 (15 minutes), spent to search for and copy the requested record, which is typically done by clerical staff. Calculate the time to the closest 15-minute interval: “.25” equals 15 minutes; “.50” equals 30 minutes; “.75” equals 45 minutes; “1.0” equals 1 hour.

**Column V, Actual Review/Segregation Hours:** Enter the actual time spent to review and/or segregate the requested record, which is typically done by managers, supervisors, attorneys, or professional staff. Do not include attorneys’ time for legal research in this column, as it will be separately entered in Column W. Calculate the time to the closest 15-minute interval: “.25” equals 15 minutes; “.50” equals 30 minutes; “.75” equals 45 minutes; “1.0” equals 1 hour.

**Column W, Actual Legal Review Hours:** Although an agency cannot charge for attorneys’ time to research possible exemptions from disclosure or to determine the propriety of the agency’s response, please separately enter the actual time spent by an attorney for such legal review purposes. Calculate the time to the closest 15-minute interval: “.25” equals 15 minutes; “.50” equals 30 minutes; “.75” equals 45 minutes; “1.0” equals 1 hour.

**Column X, Total Actual SRS and Legal Review Hours:** This column is highlighted because the totals are **automatically calculated**, based on the hours entered for SRS times in Columns U, V, and W.

Column Y, Total Gross SRS Fees Incurred: This column is highlighted because the total gross SRS fees (before waiver) will be **automatically calculated**, based on the hours entered for SRS times in Columns U and V. This is not the amount that may actually be charged by an agency.

Column Z, Additional Response Fees Incurred But Not Chargeable: There may be times when an agency incurs additional fees to respond to a request, but these fees cannot be recovered by the agency under the UIPA and OIP's rules. For example, the agency may incur, but cannot charge for, special counsel's legal fees to defend a lawsuit brought by a requester to compel disclosure. For statistical purposes, the agency should estimate and list such unrecoverable fees in this column. (See Example 4.)

Column AA, Minus \$30 Fee Waiver: Under OIP's administrative rules, the first \$30 in SRS fees (not copying/delivery costs) must generally be waived by an agency for government record requests. § 2-71-31(a), H.A.R. If a public interest fee waiver applies, there is a \$60 fee waiver instead. **Enter as a negative number "-30"** in this box if the \$30 fee waiver, and not the \$60 fee waiver, applies. **There should only be one fee waiver entered per request; i.e.,** do not enter both the \$30 fee waiver and the \$60 fee waiver for a single request (Example 1). **Do not enter the \$30 fee waiver if this is a personal record request** (Example 2) **or if the \$60 public interest fee waiver is granted** (Example 4).

Although the waiver is entered by the agency as a negative dollar amount so that fees can be properly calculated, the column "total" highlighted in yellow will calculate the number of \$30 fee waivers granted by the agency, which will be reported to data.hawaii.gov.

Column AB, Minus \$60 Fee Waiver: The agency must grant the \$60 public interest waiver of SRS fees (not copying/delivery costs) for a government record request when (1) the request for such waiver is supported by a statement of facts, including the requester's identity, and (2) the agency finds that the waiver would be in the public interest. § 2-71-32 (a) H.A.R. A \$60 public interest fee waiver is in the public interest when (1) the requested record pertains to an agency's operation or activities (but the record's relative importance to the public is not applicable in applying the waiver); (2) the record is not readily available in the public domain; and (3) the requester has the primary intention and actual ability to widely disseminate information from the government record to the general public at large. § 2-71-32 (b) H.A.R. **Enter as a negative number "-60"** in this box if the public interest fee waiver is granted by the agency. (See Example 4.) **Do not enter the \$60 fee waiver if this is a personal record request** (see Example 2) **or if the \$30 fee waiver is granted** (see Examples 1 and 3.)

Although the waiver is entered as a negative dollar amount so that fees can be properly calculated, the column "total" highlighted in yellow will calculate the number of \$60 fee waivers granted by the agency, which will be reported to data.hawaii.gov.

Column AC, Fees for Personal Records: **Automatically calculated.** Because individuals may NOT be charged SRS fees when requesting their accessible personal records under Part III of the UIPA, the amount of SRS incurred fees that was automatically calculated in Column Y will be automatically entered as a negative number in Column AC and will be subtracted from the net SRS fees chargeable in Column AD. **For this calculation to work, the agency must properly identify a personal records request by marking**

an “x” in Column F. A negative number in Column AC does not mean that the requester is entitled to a refund.

The column “total” highlighted in yellow will calculate the total dollar amount of SRS fees for personal record requests that could not be charged by the agency, which will be reported to data.hawaii.gov.

Column AD, Total Net SRS Fees Chargeable: This column is highlighted because the total net SRS fees (after waivers or personal record amounts) that may be charged by an agency will be **automatically calculated**, based on the hours entered for SRS times. **Note that a negative number in this column does not mean that the requester is entitled to a refund.** For total net fees and costs that an agency may charge, look at Column AH.

The column “total” highlighted in yellow will show the total dollar amount of SRS fees that may be charged by the agency, which will be reported to data.hawaii.gov.

### **COPY/DELIVERY COSTS:**

In addition to SRS fees, OIP’s administrative rules allow agencies to recover “other lawful fees.” § 2-71-19(a)(2) H.A.R. For instance, section 92-21, Hawaii Revised Statutes, authorizes agencies to recover costs for copying (at not less than five cents per page) records requested by the public. **These copying costs are determined by each agency and are separate from the SRS fees described above.** Costs directly incurred by the agency in responding to a request, such as for postage or blank media, or in appropriate instances for third-party services to copy a specialized type of record (such as a videotape), would also be considered “lawful fees” even in the absence of a specific statutory authorization.

OIP considers permissible copying costs to include a charge per page to scan records not already in electronic form that the requester wants to be delivered electronically or by fax. With respect to non-paper records, the agency may charge the requester for the cost of blank CDs, videos, tapes, delivery boxes, and other special materials needed to make or send a copy of the record, and where the agency lacks the necessary equipment to copy a specialized type of record (such as a videotape) the agency may charge the requester for the cost of reproduction by a third-party service. If a printed-out copy of an electronic record must be made in order to mail or fax a physical copy to the requester as requested, then the agency may charge the requester for the cost of such copy. **But if a copy must be made for the agency’s internal use to redact and segregate the record, the cost of this copy cannot be charged to the requester because it is currently considered to be a part of the SRS process, not a copying or delivery cost. Only the cost of the copy provided to the requester may be charged as a copying cost under current OIP rules.**

**Note that copying and delivery costs are not subject to the SRS fee waivers** in Columns AA and AB.

All of the column totals in this section will be reported on data.hawaii.gov.

Column AE, Gross Copy/Delivery Costs that Agency Incurred: Enter **all costs incurred** to segregate, copy, and deliver the record to the requester, **including any extra copying costs incurred for internal use to redact and segregate the record.**

Column AF, Net Copy/Delivery Costs Chargeable to Requester: Enter only the costs that may be properly charged for copying, materials, and delivery of the requested record. **Do not include the cost of any extra copies made for internal use in redacting and segregating the record.**

#### **TOTAL FEES AND COSTS:**

If the time to search, review, and segregate (including any waivers) and the costs of copying have been properly inputted, then the **log will automatically calculate** the amounts in columns AH, AI, and AJ. **Column AG is the only column that the agency must fill in this section** because the amount that it actually charged the requester may be less than the chargeable amount that has been automatically calculated in Column AH.

All totals highlighted in yellow in this section will be reported on data.hawaii.gov.

Column AG, Total Fees and Costs Actually Paid by Requester: Enter the **total** amount of SRS fees and copying, materials, and delivery charges that the requester **actually paid**, which may be less than what the agency was entitled to charge in Column AH. If the agency did not charge the requester for any SRS fees or copying/delivery costs, then enter a zero.

Column AH, Total Net Fees and Costs Chargeable: This amount will be **automatically calculated** based on the agency's data entries. **This is the amount that the agency may charge to the requester for allowable SRS fees and copying/delivery costs.**

Column AI, Total Gross Fees and Costs Agency Incurred: This amount will be **automatically calculated** and is for statistical purposes only. This amount adds up all properly chargeable SRS fees and costs with the unrecoverable fees and costs to give the total amount that an agency incurs to fulfill record requests.

Column AJ, Total Gross Fees & Costs Incurred But Not Charged: This amount will be **automatically calculated** and is for statistical purposes only. This amount is calculated by subtracting the total net fees and costs that requesters actually paid (Column AG) from the total gross fees and costs that the agency actually incurred (Column AI) to give the total amount that an agency could not recover.