
 <p style="text-align: center;"><b>Judiciary of Guam</b></p>	<p>Department: <b>ADMINISTRATIVE OFFICE OF THE COURTS</b></p>
<p>TITLE: <b>SUNSHINE ACT (FOIA) REQUESTS</b></p>	<p>EFFECTIVE DATE: September 5, 2017</p>
<p>REVISED DATE:</p>	<p>APPROVED BY: </p>

**A. PURPOSE:**

This policy establishes the Judiciary of Guam (hereinafter “JOG”) requirements for complying with the Sunshine Reform Act of 1999 (hereinafter “Sunshine Act”). This policy supports open government through transparency and proactive disclosure. It also serves as a framework for the associated procedures used to process Sunshine Act requests and promote accountability for the timeliness and quality of JOG responses. The procedures provide basic instructions for responding to Sunshine Act requests submitted to JOG. They address statutory, policy, procedural and processing requirements to be followed by all JOG Divisions and Offices.

**B. POLICY STATEMENT:**

It is the policy of the JOG to provide the public prompt access to information about its activities in accordance with the spirit and intent of the Sunshine Act. Sunshine Act requests shall be managed as follows:

1. Sunshine Act or Freedom of Information Act (“FOIA”) requests submitted to the JOG will be processed within four (4) working days from receipt of the request, as required by 5 GCA §10103(d). In unusual circumstances time may be extended up to ten (10) days, provided that the Administrator of Courts (hereinafter “AOC”) notifies the Requestor of the reasons for the extension and the date on which a determination is expected.
2. Records found to be responsive to a request will be released unless a statutory exemption, per 5 GCA §10108, applies or, the disclosure is expressly prohibited by law.
3. All Sunshine Act or FOIA requests received by any office or division of the JOG will immediately be forwarded to the AOC’s office for review and processing.

4. At least two knowledgeable individuals, the applicable JOG Division or Office Manager, or their designee, and a JOG Staff Attorney, will review all documents before they are released to the public under the Sunshine Act to improve accuracy and consistency in release determinations.

5. All JOG Divisions and Offices will ensure that resources are allocated to comply with meeting Sunshine Act requirements detailed in this policy.

6. Improper Sunshine Act requests include, but are not limited to, requests that do not reasonably describe records sought and requests that pose questions, rather than seek documents.

7. The Sunshine Act does not require the JOG to:

Create new records or future records in response to a request;

Re-create records which were properly disposed of;

Produce records the JOG retains no control over;

Provide records which JOG already makes available to the public, whether via its website or by some other means; or

Produce purely personal records.

8. The validity of a Sunshine Act request can only be determined by the AOC.

### **C. PROCEDURE(S):**

The Sunshine Act process officially begins when a request is received in any JOG Division or Office.

**STEP 1- RECEIVE, FORWARD TO THE AOC, AND ACKNOWLEDGE INCOMING REQUESTS.** The public may submit Sunshine Act or FOIA requests to the JOG via online portal, postal mail, email, verbal request or hand delivery. The JOG Division or Office receiving a Sunshine Act or FOIA request shall immediately forward the request to the AOC's office, per 5 GCA §10105(a). If the request is verbally delivered, then the receiving JOG Division or Office will write down the specifics of the request, the name and contact information of the Requestor and forward the information immediately to the AOC's office.

If the Requestor provided an email address, then the AOC will send a written response to the Requestor acknowledging receipt. Requests received after 5p.m. Guam time or on weekends or holidays are not considered received until the next business day. If a request is received by letter or orally, then an acknowledgement will be issued by the AOC either through email address, if provided, or through regular postal mail. The acknowledgement letter will provide the date the request was received by JOG.

**STEP 2-PROCESSING THE REQUEST.** The AOC will assign the request to the appropriate JOG Division or Office for processing. The Manager of that Division or Office, or their designee, will determine what records are responsive to the request; and will identify, collect and review the records within the scope of the request. The Manager of the assigned Division or Office, or their designee, will ensure that protected information has been redacted from records before they are released.

If the description of the records requested is not sufficient for the Manager of that Division or Office to process the request, then the AOC will be notified. The AOC may contact the Requestor for additional information. All communications, including verbal conversations, with the Requestor will be documented. If the receiving Division or Office does not know where responsive records are located, the Manager, or his or her designee, will consult with the AOC's office.

**STEP 3-REVIEW BEFORE RELEASE.** All records released or being withheld in response to a Sunshine Act or FOIA request must be reviewed by the assigned Manager of the Division or Office, or their designee, and a Staff Attorney to ensure openness, transparency, consistency and the appropriate application of Sunshine Act exemptions. Responsive records that have been properly reviewed and redacted (if necessary) will be subject to one of the following outcomes:

1. Release in Full. The record, in its entirety, may be released to the Requestor.
2. Partial Grant/Partial Denial. Portions of the record will be withheld from the Requestor if covered by either one or multiple Sunshine Act exemptions. The portions of the records that are not redacted are released to the Requestor.
3. Withhold in Full. The record, in its entirety, will be withheld from the Requestor if covered by either one or multiple Sunshine Act exemptions or prohibited by law.

**STEP 4- ASSESS APPROPRIATE FEES.** Requestors shall be charged for copies of documents pursuant to the Superior Court of Guam Fines and Fees Schedule.

**STEP 5- PREPARE THE RESPONSE LETTER, RESPOND TO REQUEST.** The AOC will prepare the response letter, attach the responsive records and invoice (when applicable). In addition, response letters that withhold JOG records, in total or in part, are required to identify the:

1. Records withheld individually or by category of similar documents if voluminous; and
2. Applicable Sunshine Act exemption(s) under which the record is either redacted or withheld and a brief statement explaining the reason for the denial.

**D. ANNUAL REPORT.** The Administrative Office of the Courts will comply the annual report requirements found in 5 GCA §10107 and will file with the Attorney General of Guam on or before February 1 of each year. The annual report requirements apply to the time period of October 1 to September 30 of each year and requires the Administrative Office to do the following each reporting period:

1. To keep a record of the number of requests for records received by the JOG for the applicable time period;

2. To record the number of requests the JOG processed for the applicable time period;

3. The median number of days taken by the JOG to process the requests;

4. The number of full-time staff of the JOG devoted to processing the requests for records and the total amount expended by the JOG for processing the requests;

5. The number of requests for records pending before the JOG as of September 30 of the reporting year and the median number of days that the requests have been pending; and

6. The number of determinations made by the JOG not to comply with requests and the reasons set forth.

**E. ADDITIONAL INFORMATION.** This document is not intended to create any rights or privileges for the public, or obligations on the part of the Judiciary of Guam.

**F. DEFINITIONS:**

1. **EXISTING RECORDS-** JOG records that exist as of the date a Sunshine Act request is received by the JOG.

2. **SUNSHINE ACT-** The law provides individuals with a statutory right of access to certain JOG records. The law requires JOG to disclose requested records unless they are protected from public disclosure. The Legislature included in the Sunshine Act exemptions to protect important interests such as personal privacy, privileged communications, and law enforcement.

3. **RECORDS-** Information in the JOG's possession and control in any format, including electronic format.

4. **REDACT-** The act of removing exempt information from responsive documents either manually or utilizing redaction software.

5. **REQUESTOR-** Any individual (including non-U.S. citizens), corporation or association, public interest group, and state, local, tribal, or foreign government making a Sunshine Act request.

**G. REFERENCES:**

5 GCA Chapter 10, Sunshine Reform Act of 1999

