**Section 1828.202 Public Records that Will Not Be Disclosed**

a) *When a request is made to inspect or copy a public record that contains information that is* otherwise *exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the* Agency *shall make the remaining information available for inspection and copying*. (Section 7(1)(a) of FOIA) Subject to this requirement*,* the Agency shall not disclose the following public records:

1) Public records exempt from disclosure pursuant to Section 7 of FOIA, including but not limited to:

A) *Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law;* (Section 7(1)(a) of FOIA)

B) *Private information, unless disclosure is required by another provision of* FOIA, a State or federal law or a court order; (Section 7(1)(b) of FOIA)

C) *Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy;* (Section 7(1)(c) of FOIA)

D) *Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:*

i) *Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;*

ii) *Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;*

iii) *Create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;*

iv) *Unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;*

v) *Disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;*

vi) *Endanger the life or physical safety of law enforcement personnel or any other person; or*

vii) *Obstruct an ongoing criminal investigation by the agency that is the recipient of the request.* (Section 7(1)(d) of FOIA)

E) *Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the* Agency*. The exemption provided in this* subsection *extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents;* (Section 7(1)(f) of FOIA)

F) *Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested;* (Section 7(1)(g) of FOIA)

G) *Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made;* (Section 7(1)(h) of FOIA)

H) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this* subparagraph (H) *does not extend to requests made by new media as defined in* Section 1828.102 of this Part *when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public;* (Section 7(1)(i) of FOIA)

I) *Architects' plans and engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security;* (Section 7(1)(k) of FOIA)

J) *Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act;* (Section 7(1)(l) of FOIA)

K) *Communications between* the Agency *and an attorney or auditor representing the* Agency *that would not be subject to discovery in litigation, and materials prepared or compiled by or for* the Agency *in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the* Agency*, and materials prepared or compiled with respect to internal audits of public bodies;* (Section 7(1)(m) of FOIA)

L) *Records relating to* the Agency's *adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed;* (Section 7(1)(n) of FOIA)

M) *Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section;* (Section 7(1)(o) of FOIA)

N) *Records relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying;* (Section 7(1)(p) of FOIA)

O) *Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment;* (Section 7(1)(q) of FOIA)

P) *The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act* [735 ILCS 30]*, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated;* (Section 7(1)(r) of FOIA) and

Q) *Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act* [5 ILCS 175] (Section 7(1)(u) of FOIA); or

2) *Statutory Exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:*

A) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act* [20 ILCS 700];

B) *Information the disclosure of which is exempted under the State Officials and Employees Ethics Act* [5 ILCS 430], *and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act;*

C) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act* [410 ILCS 525]; and

D) *Information prohibited from being disclosed by the Personnel Records Review Act*. [820 ILCS 40]

b) In determining whether a public record is exempt from disclosure, the Agency shall follow the procedures set forth in Subpart D of this Part.

c) *A public record that is not in the possession of* the Agency *but is in the possession of a party with whom the* Agency *has contracted to perform a governmental function on behalf of the* Agency*, and that directly relates to the governmental function and is not otherwise exempt under* FOIA*, shall be considered a public record of the* Agency*, for purposes of*  this Part. (Section 7(2) of FOIA)

(Source: Amended at 34 Ill. Reg. 9028, effective June 22, 2010)