

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>KIRKWOOD INSTITUTE, INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>IOWA AUDITOR OF STATE ROB SAND, JOHN MCCORMALLY, and OFFICE OF THE AUDITOR OF STATE,</p> <p>Defendants.</p>	<p>Case No. EQCE087052</p> <p>APPENDIX IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT</p>
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ATTORNEYS FOR DEFENDANTS

All parties served electronically.

Proof of Service

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on May 2, 2022.

<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Fax
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<input type="checkbox"/> Email	<input checked="" type="checkbox"/> EDMS

Signature: /s/ Josie Bollman

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

KIRKWOOD INSTITUTE, INC., Plaintiff, v.	No. _____
IOWA AUDITOR OF STATE ROB SAND, JOHN MCCORMALLY, and OFFICE OF THE AUDITOR OF STATE, Defendants.	PETITION

Parties, Jurisdiction, and Venue

1. Plaintiff the Kirkwood Institute, Inc. is an Iowa nonprofit corporation. Its mission includes the promotion of constitutional governance and accountability in governmental institutions in the State of Iowa. It is a “person” for purposes of Iowa Code Chapter 22.

2. Defendant Iowa Auditor of State Rob Sand is an elected official who is the head of the Office of the State Auditor. Defendant John McCormally is the Chief of Staff in the Office of the State Auditor. All defendants are a “government body” that is the “lawful custodian” of records under the definitions and requirements of Iowa Code Chapter 22. Their principal place of business is located at the State Capitol Building, Des Moines, Polk County, Iowa.

3. The district court has the jurisdiction to hear an action to compel compliance with the requirements of Iowa Code Chapter 22. Iowa Code § 22.10.

4. Venue in Polk County is proper against a state official and a state department.

Factual Background

5. On June 3, 2021, the Office of the State Auditor released a special investigation report into the “Step Up, Stop the Spread” media campaign implemented by Iowa Governor Kim Reynolds to encourage Iowans to take measures to prevent the spread of COVID-19. The auditor’s report alleged that the media campaign violated Iowa Code § 68A.405A, a statute that generally prohibits the expenditure of public resources to disseminate the likeness of a statewide elected official, because Governor Reynolds appeared in the campaign video.

6. Because the law cited by the state auditor has an express carve-out for expenditures related to the use of emergency powers (which the media campaign plainly was), the Kirkwood Institute decided to investigate the potential political overtones of the auditor’s special investigation report. The Kirkwood Institute was concerned by the fact that the report, which contained erroneous legal analysis, had been authored by a nonlawyer employee of the Office of State Auditor. The Kirkwood Institute noted that it appeared that a politically sympathetic blogger and a similarly aligned Associated Press reporter had picked up the auditor’s report and amplified its

erroneous legal conclusions.¹ These facts, combined with Auditor Rob Sand's open political opposition to Governor Reynolds, raised the real prospect that Auditor Sand had misused public resources to pursue private political gain.

7. To further its investigation of Auditor Sand's actions, the Kirkwood Institute submitted a request on June 16, 2021, to the Office of State Auditor for the following:

- All emails sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, and the email address "desmoinesdem@bleedingheartland.com".
- All emails sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, that contain the phrase "desmoinesdem@bleedingheartland.com".
- All emails and text messages sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, that contain the word "Belin".
- All emails sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, and the email address "rjfoley@ap.org".
- All emails sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, that contain the phrase "rjfoley@ap.org".
- All emails and text messages sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, that contain the word "Foley".

8. The defendants, acting through McCormally, provided its response in two tranches. For both, they claimed that certain documents responsive to the request would be withheld. The defendants claimed two justifications for nondisclosure, the provisions of Iowa Code §§ 11.42 and 22.7(18). In a follow up communication,

¹ Auditor Sand made a referral of the alleged ethics violation by the Governor to the Iowa Ethics and Campaign Disclosure Board, the administrative agency charged with enforcement of ethics rules for statewide elected officials (among other duties). The board unanimously voted to reject the complaint as lacking merit. See <https://www.desmoinesregister.com/story/news/politics/2021/08/12/kim-reynolds-didnt-violate-self-promotion-law-covid-face-mask-ads-auditor-rob-sand-iowa-ethics-board/8115605002/>

McCormally could not provide a specific number of withheld emails but estimated that “less than a dozen” email threads were excluded from production.

9. Sand has expressed his support for prohibiting Iowa government bodies, including his office, from charging fees for attorney review of document production under Iowa Code Chapter 22.

10. Despite these statements, the defendants charged plaintiff \$162.50 for attorney time spent on the review of their document production to the plaintiff.

11. Iowa Code § 11.42(1) grants confidentiality to “information received during the course of any audit or examination, including allegations of misconduct or noncompliance” and further provides that “all audit or examination work papers shall be maintained as confidential.”

12. Iowa Code § 22.7(18) allows a governmental body to withhold certain communications made to it by persons outside of government “to the extent that the government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination.” The code section requires disclosure of allegations “of a crime or other illegal act, except to the extent that its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person.” The code further provides “[i]n any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this

paragraph, the burden of proof is on the lawful custodian to demonstrate that the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger.”

13. The Kirkwood Institute is aware of at least one withheld communication which plainly does not meet the definitions contained in Iowa Code §§ 11.42 or 22.7(18). The website² for the blogger included in the records request made by the Kirkwood Institute reproduced an email from McCormally that was not included in the document production made in response to the request:

² See <https://www.bleedingheartland.com/2021/06/03/a-failure-to-communicate/> (Archived at <https://perma.cc/XUG8-2NGC>).

McCormally offered additional thoughts via email on June 4.

In your article last night, you wrote:

"But Ostergren noted that "Section 29C.6(10) says she can spend state resources to deal with the emergency," which is what happened here."

It's not what happened here. The full text [of] 29C.6(10) says:

Utilize all available resources of the state government as reasonably necessary to cope with the disaster emergency.

That doesn't mean the Governor can do whatever she wants. 29C must be narrowly construed. The statute does not give her absolute power. She can redirect money, she can suspend laws, but she still has to follow certain procedures when she does so. She has to say what she is doing and why she is doing it in a disaster proclamation. She didn't do that.

Reading 29C.6(10) the way you suggest would nullify the rest of the 29C- if she can do whatever she chooses with any state "resource" when she declares an emergency, the rest of the statute is superfluous. It might as well say "When she declares an emergency, the Governor is the only law." That would amount to unconstitutional delegation of legislative power to the executive. Even in an emergency, she is still subject to the law.

You may think a paid ad featuring her face was a reasonable thing for her to spend money on, or that this is too technical. Those are reasonable positions. However, there are rules for spending taxpayer money. And she didn't follow them. Making sure Is are dotted and Ts are crossed when it comes to the spending of taxpayer money is the entire job of the state Auditor.

14. There is no set of circumstances where an auditor employee's communication doing damage control over a legally flawed report can be withheld under Iowa Code §§ 11.42 or 22.7(18). It is the law "that free and open examination of public records is generally in the public interest even though such examination may cause inconvenience or embarrassment to public officials or others." Iowa Code § 22.8(3).

15. The grounds cited by the defendants to withhold production of the requested records call for the supervision of the Court to determine whether they truly apply or are merely raised to avoid the auditor's inconvenience and embarrassment. The defendants must prove to the Court's satisfaction that the withheld documents are either communications related to an audit or are genuinely made in confidence as provided by sections 11.42 and 22.7(18).

Cause of Action – Iowa Code Chapter 22

16. Under the provisions of Iowa Code § 22.10, the Kirkwood Institute respectfully requests the Court order the following:

- a. that defendants must produce the withheld records;
- b. that the defendants be enjoined from further violations of Iowa Code Chapter 22, with violations of said injunction punishable by civil contempt proceedings;
- c. that the defendants pay a civil penalty for a knowing violation of their duties under Iowa Code Chapter 22 of not less than \$1,000 nor more than \$2,500;
- d. that because of the imposition of damages Sand will be removed from office if he violates the provisions of Iowa Code Chapter 22 again during his term; and
- e. that the defendants pay the Kirkwood Institute's reasonable attorney fees and the costs of this action.

Respectfully submitted,

/s/ Alan R. Ostergren

Alan R. Ostergren

President and Chief Counsel

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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>KIRKWOOD INSTITUTE, INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>IOWA AUDITOR OF STATE ROB SAND, JOHN MCCORMALLY, and OFFICE OF THE AUDITOR OF STATE,</p> <p>Defendants.</p>	<p>Case No. EQCE087052</p> <p>ANSWER</p>
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COME NOW the Defendants, Iowa Auditor of State Rob Sand, John McCormally, and the Office of Auditor of State (“Defendants”), by and through undersigned counsel, and submits the following for its answer to the Petition filed by the Plaintiff, Kirkwood Institute (“Plaintiff”):

1. Defendants admit that plaintiff is an Iowa nonprofit corporation and is a person for the purposes of Iowa Code chapter 22. The remainder of ¶ 1 is denied for lack of knowledge.
2. Admitted.
3. Admitted.
4. Admitted.
5. Defendants admit that on June 3, 2021, the Office of Auditor of State released a report on a special investigation of the “Step Up, Stop the Spread” media campaign announced by Governor Kim Reynolds aimed at slowing the spread of the COVID-19, finding that portions of this campaign violated Iowa Code section 68A.405A. The remainder of ¶ 5 is denied.
6. Denied for lack of knowledge.
7. Admitted.

8. Admitted.

9. Defendants admit that Defendant Sand has criticized unreasonably excessive charges imposed in open records requests when the charges total far greater than those assessed for this request. The remainder of ¶ 9 is denied for lack of knowledge.

10. Defendants deny any implication that the fee charged Plaintiff violates Iowa Code section 22.3 or was unreasonable or excessive. The remainder of ¶ 10 is admitted.

11. No responsive pleading is required to a quote of statute.

12. No responsive pleading is required to a quote of statute.

13. Defendants admit that the email excerpted in the petition was not included in the document production request but deny the implication it should have been included pursuant to Iowa Code chapter 22. The remainder of ¶ 13 is denied for lack of knowledge.

14. Defendants deny the email excerpted in the petition was withheld under Iowa Code chapter 22 because it was not a public record within the meaning of Iowa Code section 22.1(3). No responsive pleading is required to a quote of statute. The remainder of ¶ 14 is denied.

15. No responsive pleading is required to Plaintiff's paraphrase of Iowa Code section 22.10(2), but Defendants deny that any or all allegedly withheld records are government record subject to section 22.10(2) burden shifting. *See* Iowa Code § 22.10(2). To the extent that any further response is required, the remainder of ¶ 15 is denied.

16. Defendants deny that Iowa Code chapter 22 was violated and that the Plaintiff is entitled to the relief requested. To the extent any further response is required, the remainder of ¶ 16 is denied.

AFFIRMATIVE DEFENSES

1. Defendants complied with Iowa Code chapter 22 when responding to Plaintiff's open records request.

2. Defendants have express obligations under Iowa Code section 11.42 "notwithstanding Chapter 22" to keep confidential certain information related to the initiation and investigation of audits or examinations, and wrongful disclosure is grounds for termination. These obligations prevented disclosure to Plaintiff of some government records responsive to his open records request.

3. Fees charged to Plaintiff were permissible under Iowa Code section 22.3(2).

4. If Defendants are found to have violated Iowa Code chapter 22, they should not be assessed damages because:

a. Defendants had good reason to believe and in good faith believed facts which, if true, would have indicated compliance with the requirements of Iowa Code chapter 22. Iowa Code § 22.10(3)(b)(2).

b. Defendants reasonably relied upon a decision of a court, a formal opinion of the Iowa Public Information Board, the Attorney General, or the attorney for the government body, given in writing, or as memorialized in the minutes of the meeting at which a formal oral opinion was given, or an advisory opinion of the Iowa public information board, the attorney general, or the attorney for the government body, given in writing. *Id.* § 22.10(3)(b)(3).

5. Defendants reserve the right to assert additional affirmative defenses and points of law.

WHEREFORE, Defendants request that Plaintiff's Petition be dismissed at Plaintiff's cost and the Court award whatever additional relief to Defendants that it believes to be just and equitable.

**THOMAS J. MILLER
ATTORNEY GENERAL OF IOWA**

/s/ Caroline Barrett _____

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ATTORNEY FOR DEFENDANTS

All parties served electronically.

Proof of Service	
The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on November 3, 2021.	
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Fax
<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Federal Express	<input type="checkbox"/> Other
<input type="checkbox"/> E-mail	<input checked="" type="checkbox"/> EDMS
Signature: <i>/s/ Josie Bollman</i> _____	

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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COME NOW the Defendants, Iowa Auditor of State Rob Sand, John McCormally, and the Office of Auditor of State, and answers Plaintiff’s First Set of Interrogatories.

THOMAS J. MILLER
ATTORNEY GENERAL OF IOWA

/s/ Caroline Barrett

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ATTORNEY FOR DEFENDANTS

All parties served electronically.

Proof of Service	
The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on January 18, 2022.	
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Fax
<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Federal Express	<input type="checkbox"/> Other
<input checked="" type="checkbox"/> E-mail	<input type="checkbox"/> Electronically-ECF System
Signature: <u>Caroline Barrett</u>	

DEFINITIONS

Except as specifically defined below, the terms used in these interrogatories shall be constructed and defined in accordance with the Iowa Rules of Civil Procedure, wherever applicable. Any terms not defined shall be given their ordinary meaning.

1. "Date" means the exact day, month, and year, if ascertainable, or, if not, the best available approximation (including relationship to other events).
2. "You" and "your" means the Defendants individually and their employees, staff, agents, and representatives.

INSTRUCTIONS

1. Plaintiff requests that you serve responses and any objections on Plaintiff's counsel within 30 days after service of these interrogatories. *See* Iowa R. Civ. P. 1.512(2)(b)(1).
2. If you object to any part of an interrogatory, set forth the basis of your objection and answer all parts of the interrogatory to which you do not object.
3. If, in responding to these interrogatories, you encounter any ambiguities when construing a request or definition, set forth the matter deemed ambiguous and the construction used in responding. Where you, in good faith, doubt the meaning or intended scope of a request, and the sole objection would be to its vagueness, overbreadth, or ambiguity, please contact Plaintiffs' counsel for clarification in advance of asserting an objection.
4. With respect to any interrogatory you refuse to answer, in full or in part, on a claim of privilege or work product protection, describe the basis of the claimed privilege or protection and all information necessary for Plaintiff to assess the claim.

5. Each interrogatory is to be answered separately.

6. These interrogatories are continuing in nature, up to and during the trial. If you learn that an answer is in some material respect incomplete or incorrect, promptly amend your answer to these interrogatories. If you expect to obtain further information or expect the accuracy of a response may change between the time answers are served and the time of trial, you are requested to state this fact in your answer.

7. If you contend that it would be unreasonably burdensome to answer an interrogatory, then answer to the extent possible without undertaking what you contend to be an unreasonable burden.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the interrogatory inclusive rather than exclusive.

10. "Any" and "all" include the collective as well as the singular and shall mean "each" and "every," and these terms shall be interchangeable.

11. "Relating to," "regarding," or "concerning" and their cognates are to be understood in their broadest sense and shall be construed to include pertaining to, commenting on, memorializing, reflecting, recording, setting forth, describing, evidencing, or constituting.

12. A reference to an office or entity in these interrogatories shall be construed to include its officers, directors, partners, members, managers, employees, representatives, agents, consultants, staff, or anyone acting on its behalf.

13. When asked to “identify” a witness or other individual, provide the individual’s full name, organizational affiliation, title, address, phone number, and email address.

INTERROGATORIES

INTERROGATORY NO. 1. Identify each person who was consulted or who provided assistance in responding to these Interrogatories and the accompanying Request for Production of Documents.

RESPONSE: John McCormally
Jacob Lloyd (performed email searches)
Drew Stensland (located audit reports relevant to Rog 4)

INTERROGATORY NO. 2. Identify each person known to you who has knowledge of any fact pertaining to the issues in this litigation and briefly describe the information the person is believed to possess.

RESPONSE: John McCormally
Sonya Heitshusen
Jacob Lloyd

INTERROGATORY NO. 3. Identify all persons whom you intend to call as witnesses at the trial of this case, and briefly describe the testimony each witness is anticipated to provide.

RESPONSE: John McCormally

INTERROGATORY NO. 4. For each email or email chain not produced as described in paragraph 8 of the Petition, provide the following information:

1. The date of the first and last email in the chain.
2. The personnel of the Auditor of State’s office included in the email or email chain.
3. The subject matter of the chain.
4. The specific basis, described in narrative form with citation to legal authority, of the grounds to withhold the email or email chain.

5. A description of any inquiry made to any nongovernmental employee who sent or received information in the email or email chain as to whether such person would consent to the disclosure of the email or email chain.
6. Whether the email or email chain relates to an audit or examination conducted by the Office of the Auditor of State and, if so, the date the audit or examination was or will be completed.

RESPONSE: Provided in electronic file "Rog #4 Resp"

INTERROGATORY NO. 5. Describe in narrative form the procedure used by the defendants to respond to the records request that is the subject of the Petition.

RESPONSE: Provided in electronic file "Rog 5 Response."

INTERROGATORY NO. 6. Does the Auditor of State have a policy, practice, or custom about whether employees of the office, including Auditor of State Rob Sand, are permitted to use email addresses or accounts not maintained by the State of Iowa to communicate about the actions, duties, works, or any other public business of the Office of Auditor of State. If so, state what the practice or custom is and provide a written copy of any such policy.

RESPONSE: The Auditor of State's policies for employee conduct and communication are contained In the Auditor's employee manual, provided in electronic file "Rog 6 Response."

INTERROGATORY NO. 7. State any occasion where an employee of the Office of the Auditor of State, including Auditor of State Rob Sand, has violated the policy, practice, or custom described in Interrogatory No. 6. For each such violation identify the violator, the circumstances of the violation, and the response of management of the Office of the Auditor of State to the violation.

RESPONSE: The office of the Auditor of State is aware of no such occasions.

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I John McCormally, the undersigned, after being first duly sworn upon my oath, state that I am acting on, and am legally able to act on, behalf of the Defendants, that I have read the foregoing Answers to Interrogatories and the same are true and correct as I verily believe.

1/17/22
Date



By: John McCormally

SUMMARY OF WITHHELD EMAILS

1. The date of the first and last email in the chain.
2. The personnel of the Auditor of State's office included in the email or email chain.
3. The subject matter of the chain.
4. The specific basis, described in narrative form with citation to legal authority, of the grounds to withhold the email or email chain.
5. A description of any inquiry made to any nongovernmental employee who sent or received information in the email or email chain as to whether such person would consent to the disclosure of the email or email chain.
6. Whether the email or email chain relates to an audit or examination conducted by the Office of the Auditor of State and, if so, the date the audit or examination was or will be completed.

#1

1. 1.7.21
2. Email from Deputy Auditor Marlys Gaston to Managers Ryan Pithan. and Pam Bormann.
3. Forwarded articles from Bleeding Heartland website for reference in audit ongoing audits of state agency office.
4. This email constitutes workpapers under 11.42.
5. N/A
6. This information relates to an ongoing audit of federal expenditures related COVID-19. Audit reports issued in November 2021, June 2021 and October 2020, may or may not have utilized these workpapers and/or some of the information therein may have been disclosed pursuant to Iowa Code 11.28 and 11.42 (3). Subsequent reports referencing these workpapers may be issued as deemed necessary.

#2

1. 11.13.19
2. Email from citizen to info@aos account
3. contains reference to Belin McCormick law firm. Falls under request for emails with the word "Belin," but not related to search
4. The content falls under 22.7(18).
5. N/A
6. This information did not lead to and was not included in an audit.

#3

1. 4.7.21
2. email thread between Laura Belin and Sonya Heitshsuen
3. Includes info Belin's research into CRF expenditures.

4. This email constitutes “Information received in the course of an audit under 11.42.
5. N/A
6. This information relates to an ongoing audit of federal expenditures. Audit reports issued in November 2021 and June 2021, may or may not have utilized this information and/or some of the information therein may have been disclosed pursuant to Iowa Code 11.28 and 11.42 (3). Subsequent reports referencing this information may be issued as deemed necessary.

#4

1. 2.17-18 8.21
2. Email forwarded by Sonya H. to Rob Sand and John McCormally
3. Contains an email forwarded by L. Belin to Sonya
4. This email constitutes “Information received in the course of an audit” under 11.42.
5. n/a
6. This information relates to an ongoing audit of federal expenditures. Audit reports issued in November 2021 and June 2021, may or may not have utilized this information and/or some of the information therein may have been disclosed pursuant to Iowa Code 11.28 and 11.42 (3). Subsequent reports referencing this information may be issued as deemed necessary.

#5

1. 4.6.21
2. Email forwarded by Sonya H. to John McCormally
3. Forwarded email from Belin with a hypothetical question regarding the propriety of certain expenditures by a state department.
4. This email constitutes “Information received in the course of an audit” under 11.42.
5. N/A
6. This information relates to ongoing audit of a state agency. Audit reports issued in October 2021 may or may not have utilized this information and/or some of the information therein may have been disclosed pursuant to Iowa Code 11.28 and 11.42 (3). Subsequent reports referencing this information may be issued as deemed necessary.

#6

1. 3.6.21
2. Email from Sonya to John
3. References a call Sonya received from Ryan Foley.
4. In this call, Foley was asking to confirm if the Auditor had issued a subpoena with reference to a certain audit. Audit subpoenas are workpapers and are therefore confidential under 11.42.
5. n/a
6. The audit at issue remains in progress. We cannot project an audit completion date.

#7

1. 10.6.20
2. Email from Laura Belin to Andrew Turner
3. Contains information regarding CARES act expenditures.
4. This email constitutes "Information received in the course of an audit" under 11.42.
5. N/A
6. This information relates to an ongoing audit of federal expenditures. Audit reports issued in November 2021, June 2021 and October 2020, may or may not have utilized this information and/or some of the information therein may have been disclosed pursuant to Iowa Code 11.28 and 11.42 (3). Subsequent reports referencing this information may be issued as deemed necessary.

#8

1. 12.16-17.19
2. Email thread between Ryan Foley, Andrew Turner, and Jacob Lloyd
3. Contains a request by Foley for AOS correspondence with a certain state agency.
4. This email constitutes "Information received in the course of an audit" under 11.42.
5. N/A
6. This information relates to ongoing audit of a state agency. An audit report released in February 2020 may or may not have utilized this information and/or some of the information therein may have been disclosed pursuant to Iowa Code 11.28 and 11.42 (3). Subsequent reports referencing this information may be issued as deemed necessary.

#9

1. 3.14.19
2. emails between Foley, Andrew Turner and persons outside AOS.
3. Questions about next steps following issuance of a report about an audit report, containing new information (information received).
4. This email constitutes "Information received in the course of an audit" under 11.42.
5. N/A
6. The original report was issued in February 2019.

#10

1. 5.19.19
2. Email between AOS staff auditor Brandon Sommers and state employee with the last name of Foley.
3. Falls under the "Foley" request, but not about Ryan Foley. Content involves a discussion of audit procedures at the employees agency.
4. This email constitutes workpapers "Information received in the course of an audit" under 11.42.
5. n/a
6. This information relates to ongoing audit of a state agency. Audit reports issued in December 2020, October 2020, June 2020, April 2020, January 2020, December 2019, and October 2019 may or may not have utilized this information and/or some of the information therein may have been disclosed pursuant to Iowa Code 11.28 and 11.42 (3). Subsequent reports referencing this information may be issued as deemed necessary.

INTERROGATORY NO. 5. Describe in narrative form the procedure used by the defendants to respond to the records request that is the subject of the Petition.

Response:

Jacob Lloyd provided me with access to four ".pst" files, which contain the emails returned by the email searches he performed on the terms provided in the Kirkwood request. (There were four email files, rather than six ,because the request for emails exchanged with the email addresses "desmoinesdem@bleedingheartland.com" and "rjfoley@ap.org" were contained in the searches for the identical phrases "desmoinesdem@bleedingheartland.com" and "rjfoley@ap.org," respectively). I opened each .pst file in Microsoft Outlook, and went through each email individually.

My review of the records was guided by Iowa Code 11.42, which sets forth limitations on disclosures by the Auditor's office. Under Iowa Code 11.42(4), Auditor's office staff are subject to termination for improperly disclosing documents subject to confidentiality. As a result, I have adopted a strict interpretation of the terms of Iowa Code 11.42.

Iowa Code 11.42(1) reads:

Notwithstanding chapter 22, information received during the course of any audit or examination, including allegations of misconduct or noncompliance, and all audit or examination work papers shall be maintained as confidential.

A plain language reading of that section is that audit workpapers (the

materials prepared by the auditors for use in completing the audit) are distinct from “information received in the course of any audit or examination.” The former might generally be described as records created or maintained by the Auditor’s office for the purpose of an audit, while the latter includes at least records received from outside the office related to an audit, and especially those regarding misconduct or noncompliance. In many cases but not all, “information received” is incorporated into audit “workpapers” by the auditor. But by law, both categories must be maintained as confidential.

In addition, it is significant that 11.42 begins with the phrase, “Notwithstanding Chapter 22.” The legal interpretation of “notwithstanding” is best described as “in spite of.” BLACKS LAW DICTIONARY. Consequently, 11.42 is best interpreted as “In spite of Chapter 22, records that fall under Iowa Code 11.42 MUST be maintained as confidential, except as necessary to complete an audit or as otherwise ordered by a court.” Iowa Code 11.42(2).

With this framework, I apply the following analysis when evaluating a record for disclosure:

- a. Is the information “of or belonging to the state,” making it a “public record” within the meaning of Iowa Code Chapter 22?
- b. If so, is the record subject to the confidentiality provisions of 11.42?
- c. If 11.42 does not apply to a record, is it otherwise subject to one of the exceptions to disclosure in Iowa Code §22.7?

With this framework, I reviewed several hundred pages of emails to fulfill

the Kirkwood request. I withheld ten threads as either workpapers, information received, or as otherwise confidential under chapter 22. Some of these had nothing to do with either Laura Belin or Ryan Foley, but fell under the request due to the commonality of the search terms.

OFFICE OF AUDITOR OF STATE EMPLOYEE HANDBOOK

This handbook is intended to provide you a convenient reference to the personnel policies governing your employment in the Office of the Auditor of State and is to serve as a guide to the policies and procedures of the office. However, exceptions to these guidelines will be made when the interest of the operations of the Office of Auditor of State so require. Procedures outlined in this handbook are subject to change, and employees will be notified of any such changes.

Operating policies, procedures, and acceptable standards of performance relating to the audit process are documented in the Audit Manual.

If you have questions, please ask for guidance, we want you to fully understand the policies and procedures of the Office of Auditor of State.

The material contained in this Employee Handbook is provided for informational purposes only. Employees should not interpret any statements in the Handbook to imply that an "Employment Contract" exists. The State of Iowa does not use Employment Contracts. All Employer-Employee associations in the Office of Auditor of State are cancelable by either party at any time.

The contents of this Employee Handbook pertain to all employees in the Office of Auditor of State unless specifically designated otherwise.

The Office of Auditor of State Employee Handbook can be found at [H\General Office Information\Employee Handbook](#)

Because you are a State of Iowa Employee, the State of Iowa Employee Handbook policies and procedures also apply to your employment with the Office of Auditor of State. The State of Iowa Employee Handbook can be found at https://das.iowa.gov/sites/default/files/hr/documents/SOI_EE_Handbook.pdf.

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State Capitol Building
Room 111
Des Moines, Iowa 50319
515-281-5835
515-281-6518 FAX

Office of Auditor of State
Lucas State Office Building
321 E. 12th Street, 2nd Floor
Des Moines, Iowa 50319
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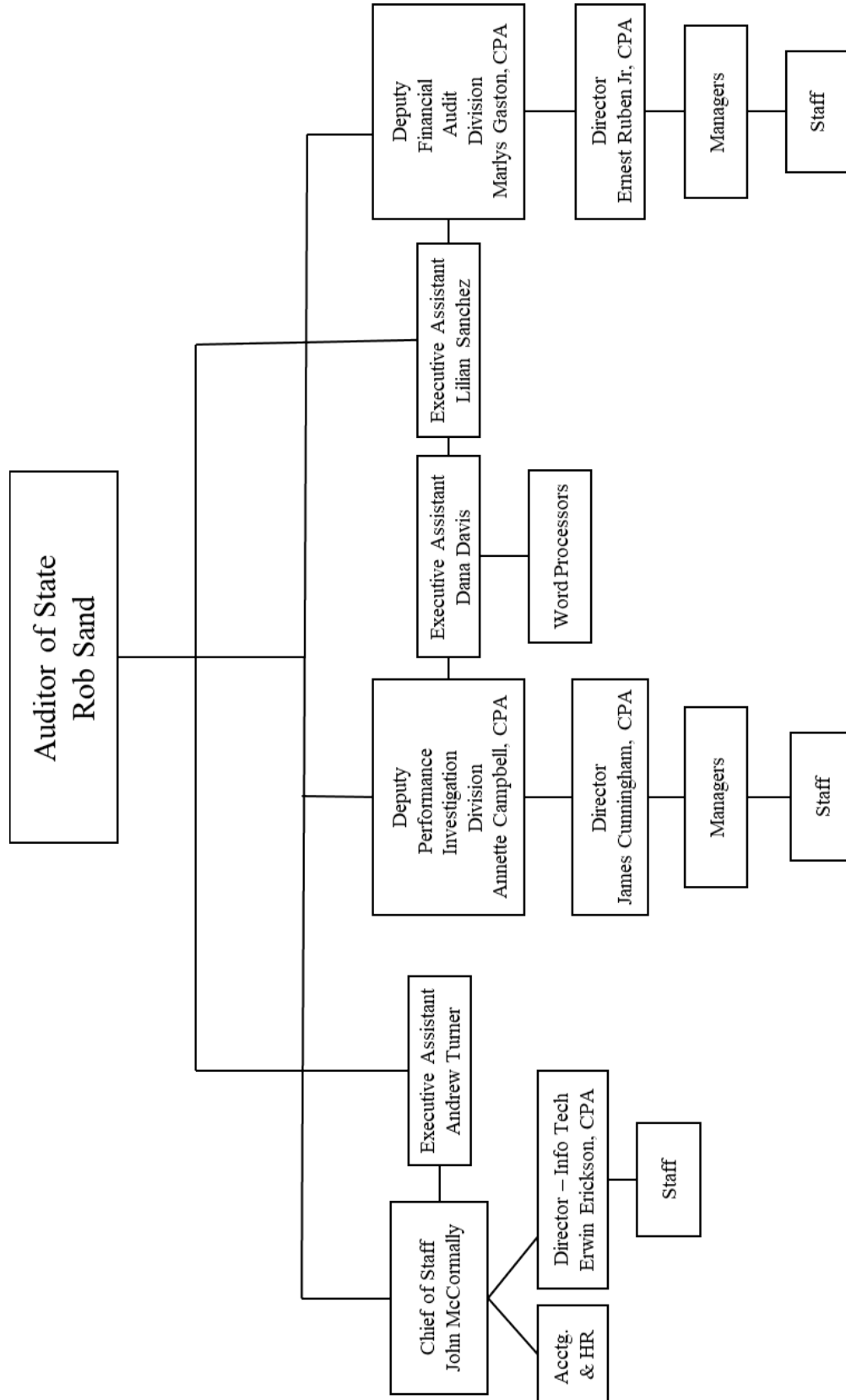
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ORGANIZATION CHART 2019



100 INTRODUCTION TO THE OFFICE OF AUDITOR OF STATE

Welcome to the Office of Auditor of State. You have joined an experienced, professional group of individuals dedicated to making state and local government as efficient and effective as possible.

101 Responsibilities

The mission of the Office of Auditor of State is to benefit all Iowans by providing audit, review and other technical services to state and local governments to ensure the effective, economical businesslike conduct of public activities in a prudent, accountable manner to achieve the intended purposes.

The Auditor of State is a constitutional official, elected every four years. The Auditor is required to annually make a complete audit of the books, records and accounts of every department of state government. The State's Comprehensive Annual Financial Report and Single Audit Report are audited by the Auditor of State.

The Auditor of State has responsibility for audits and agreed-upon procedures when applicable of counties, cities, school districts and other governmental subdivisions and is required to provide guidelines to CPA firms performing such engagements. All engagements must be filed with the Auditor of State and are a matter of public record open to inspection.

The Auditor of State conducts comprehensive performance audits of state agencies and local governments. The Auditor also investigates suspected embezzlements, theft, or other significant financial irregularities and conducts special studies at all levels of government.

The Auditor of State is a member of the State Executive Council, the State Appeal Board, the Iowa Telecommunications and Technology Commission, the Vision Iowa Board, the Tobacco Settlement Authority and the Honey Creek Premier Destination Park Authority.

102 Organization

The Office of Auditor of State includes three divisions, with the duties and responsibilities summarized as follows:

102.1 Administration Division

This division is responsible for general management of the office, which includes fiscal management, data processing, audit report preparation, information technology, quality control, record management and reception.

102.2 Financial Audit Division

This division is responsible for performance of annual audits and agreed-upon procedures when applicable of Iowa's Comprehensive Annual Financial Report and its Single Audit report, all state departments and agencies, as well as audits and agreed-upon procedures when applicable of counties, cities, school districts and other governmental subdivisions as requested.

This division also reviews audits of governmental subdivisions performed by CPA firms and provides technical assistance to citizens, CPA firms, government officials and other governmental agencies.

102.3 Performance Investigation Division

This division is responsible for conducting comprehensive performance audits and re-audits of state agencies and the programs they administer and provides technical assistance to citizens, CPA firms, government officials and other governmental agencies.

This division investigates suspected embezzlements, theft, or other significant financial irregularities and conducts special studies assigned by the Auditor of State or requested by the legislature.

103 Employment Status

The Code of Iowa provides all employees of the Office of Auditor of State are "exempt" from the merit system (Section 8A.412) and collective bargaining (Section 20.4). Therefore, all employees in the Office of Auditor of State are "*confidential employees*." The Office of Auditor of State functions under policies and procedures developed and established by the Auditor of State. In order to maintain employment opportunities and benefits consistent with the State of Iowa, it is the intention of the Auditor of State that policies and procedures for this office will parallel those of other state agencies whenever possible and/or required by law.

104 Equal Employment Opportunity

The Office of Auditor of State has made a commitment to provide equal employment opportunities for all. Our employment practices support our dedication to the principle all recruiting, hiring, internal placements, promotions, discipline and related employment actions will be made without regard to race, color, national origin, sex, age, disability or religious or political affiliation, except where physical or mental ability is a bona fide occupational qualification.

A pledge has been made to give special consideration and support to each facet of the equal employment policy, and all persons involved with the selection or management of employees are expected to assist in the accomplishment of this goal.

200 GENERAL INFORMATION

201 Office Locations

The Office of Auditor of State is in the State Capitol Building where the Auditor of State and the Chief of Staff are located. The Financial Audit Division, the Performance Investigation Division and the Administration Division management and staff are located in the Lucas State Office Building. Satellite offices are located in Ames, Iowa City, Cedar Falls, and on the Capitol Complex.

202 Office Hours

The Office of Auditor of State's offices in the Capitol Building and the Lucas Building are open to the public during standard office hours from 7:45 a.m. to 4:30 p.m., Monday through Friday. Offices in other facilities will not generally have standard office hours when they will be open to the public and the hours they are accessible to the public are dependent on assigned staffing.

203 Work Hours

Work hours are established for various personnel groups to allow us to meet our responsibilities to the public and to complete necessary audit, investigative, review, and other work in appropriate time frames. As a result, different work hours may be established for different personnel groups, and established work hours within personnel groups may be changed when the need arises. The following describes the general criteria which will be utilized in the establishment of work hours for various personnel groups. Work is generally performed in AOS or client offices, but employees may also work at alternate locations, such as at home, when such arrangements are not detrimental to productivity. Any employee who plans to work during normal office hours from a location other than the AOS or client offices should communicate that to their supervisor with at least 24 hours notice. Generally, requests to work remotely will be approved with sufficient accommodation and communication to the employee's In-charge. Work hours, work locations and client assignments are at the discretion of the Manager, Division Deputy and Auditor of State. Remote work requests may be denied during field work at the discretion of the In-charge. All staff are responsible for being accessible to their supervisors during normal office hours.

203.1 Support Staff

Support staff will generally be assigned to work standard office hours to facilitate access to our office by the public. Alternative scheduling may be available when requested by an individual employee who can demonstrate such alternative scheduling will not interfere with employee's job duties or the provision of services to the public or other staff members. Requested alternative scheduling is subject to approval by a Division Deputy and the Chief of Staff. Alternative scheduling may also be required when a Division Deputy, Chief of Staff or Auditor of State determine such alternative scheduling is necessary to facilitate timely completion of tasks assigned to support staff as a group or to individual support staff members.

203.2 Audit Staff

Work hours for audit staff will be determined by the Incharge and/or Manager for the job's auditors are assigned to. These determinations will be made after considering the preferences expressed by auditors, availability of auditee or other personnel on assigned jobs, opportunities to minimize travel expenses on assigned jobs, necessary supervision of staff and the need to complete assignments in established time frames. Audit staff are exempt employees who may be required to work more than 80 hours per pay period. Subject to the discretion of the audit manager or in charge-audit, staff are granted flexibility to complete their hours during the engagement by working during hours and from locations that the individual staff member may find most productive. Since the Incharge and Manager have primary responsibility for timely, professional completion of assigned jobs, variances from the assigned work hours on individual jobs are subject to the approval of the Incharge and/or Manager. Completion of required work hours is the responsibility of each employee.

203.3 Extended Hours

Additional hours are necessary during certain times of the year and for certain engagements to enable the Office to meet established deadlines for the issuance of audits or completion of other projects. Such times are normally referred to as "Extended Hours" periods. In those cases, Office management will specify the minimum number of hours to be worked by each auditor during the designated time periods. Incharges and Managers will be responsible for ensuring that the specified number of hours are worked by audit staff assigned to their jobs during those time periods. Due to the need for extended hours during certain time periods, audit staff will generally not be scheduled for hours during the week between Christmas and New Years as a partial accommodation for working extended hours.

204 Evacuation and Emergency Procedures

Notification of emergencies within the Capitol Complex may be provided as an announcement on the paging systems or by activation of the fire alarm system. Employees must follow the instructions received.

In general, you will be instructed to (1) evacuate the building if the emergency condition involves a fire or a bomb threat or (2) proceed to the nearest shelter if a tornado warning has been issued. The location of emergency exits and tornado shelters, as well as building emergency procedures, are posted in each building. You should familiarize yourself with this information for buildings in which you work.

Time during emergencies will be paid time, and employees are expected to return to work when the "All Clear" is issued. Employees not returning to work when the "All Clear" is issued will be charged for vacation leave or leave without pay.

If you are working outside the Capitol Complex, you should inquire about the evacuation and emergency procedure applicable to your location.

Please refer to APPENDIX C, the *Lucas Building Emergency Information* at the end of this Handbook. Also, please refer to the *State of Iowa Severe Weather/Emergency Evacuation Policy* at:

https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/severe_weather_policy.pdf

205 Absences

All absences must be reported. If you are unable to report for work at your scheduled time, call your Manager, Incharge or other immediate supervisor as soon as possible, preferably within ½ hour of your scheduled starting time. Failure to report an absence in a timely manner may result in discipline.

You may also call the main office number (515-281-5834) to report your absence when you are unable to reach your Manager, Incharge or other immediate supervisor. Your supervisor may need to discuss the status of your assignments with you. It is best to speak directly to a Manager/Director/Deputy; however, if it is unavoidable leave a recorded message on the main office number. It is not acceptable to leave a recorded message on any other number to report an absence.

206 Breaks and Lunches

Employees are allowed two paid 15-minute breaks and one unpaid 45-minute lunch break per day. Completion of required work hours is the responsibility of each employee. Deviations from normal work hours must be communicated to supervisors in advance. All staff are responsible for being accessible to their supervisors during normal office hours.

207 Parking

Employees on the Capitol Complex park in designated employee lots. When you begin working, you will be given an application for parking lot assignment. Employees are issued an access card, vehicle decal and parking instructions. Contact the AOS HR/Payroll Coordinator for additional decals or replacement access cards.

It is important you do not park in reserved, visitor or legislative parking lots on the Capitol Complex.

Every employee has the responsibility to know and obey the rules associated with parking at the Capitol Complex. Anyone violating these rules may find his or her car ticketed or, in some cases, removed by Highway Patrol Post 16. All costs incurred due to a violation of the parking rules are the responsibility of the car's owner/driver.

Auditees outside the Capitol Complex may also provide parking to auditors during the course of the audit. If so, auditors are expected to be aware of and follow the parking regulations of the particular auditee.

208 Building and After-hours Access

Capitol Complex access cards may be programmed for after-hours access to buildings. To help detect persons responsible for theft or vandalism in the Complex, the date and time cards are used to gain access to the parking lots and buildings are recorded by the Capitol Complex security system. For your protection, do not loan your access card to anyone. Lost cards should be reported to the HR/Payroll Coordinator in a timely manner to prohibit unauthorized access to the Office. Contact the AOS HR/Payroll Coordinator if you have problems with parking or building access or for replacement access cards.

209 AOS ID Cards

All staff are issued AOS identification cards. Identification may be requested by an auditee when you arrive at an audit or by a hotel/motel as proof you are a government employee. Contact the AOS HR/Payroll Coordinator to change information on the card or to replace an expired card.

210 Personal Telephone Calls, Voice Mail and Cell Phones

Office and auditee telephones are not to be used for personal calls, except when necessary. We recognize the need to make or receive some personal telephone calls while at work, and such calls are permissible as long as they do not interfere with work performance or the work environment. Personal phone calls should be kept to a minimum.

Personal long distance calls made from Office or auditee telephones must be billed to you personally through your home phone or personal credit card.

Certain Office telephones have voice mail capabilities. Voice mail should include personalized greetings to inform callers when you are unavailable or out of the office.

Use of cell phones for personal purposes should be kept to a minimum and cell phone sounds should be turned off or set to vibrate mode. Cell phones should not be used during work hours for entertainment purposes such as texting, emailing or checking social media sites.

211 Email and Postal Mail

All staff have access to the Office email system. Automated responses should be enabled on the email system when you are out of the office and unable to respond for more than one day.

Your business address should not be used for personal mail. The normal processing of Office mail might be delayed or others may inadvertently read your personal mail.

212 Additional Employment

In addition to your position with the Office of Auditor of State, you may be employed through another employer if it does not conflict with established policies or interfere with your ability to carry out your job duties for the Office. Before accepting additional employment, you should obtain written approval from your Division Deputy and you must complete the Representation of Independence Form obtained from the AOS HR/Payroll Coordinator.

300 EMPLOYEE CONDUCT

301 Business Confidentiality

Auditor of State business or personnel matters should not be discussed outside the Office.

The Office of Auditor of State is involved in the private record keeping and personnel actions of our auditees. Information or opinions regarding auditee records or employees should not be discussed with unauthorized individuals. Disclosure of such information to unauthorized individuals is grounds for immediate dismissal. (See Audit Manual and Sections 11.41 and 11.42 of the Code of Iowa.)

302 Professional Conduct

AOS employees are representatives of this Office as they perform their duties and interact with public officials and their staff, legislators, CPA firms and the public. Also, AOS employees work closely with other AOS employees on a daily basis. Professional conduct, i.e., dignity, respectful concern for others' problems, responsiveness, etc., is not only good for public relations, but will assist you in accomplishing your duties.

You are expected to conduct yourself with the highest integrity at all times. This conduct should be exhibited both in the office and while working at locations outside the Office. Any deviations from this high level of conduct are not acceptable and immediate disciplinary action may result.

The Auditor of State expects all employees to:

- **Be Professional.** This includes good business practices as well as honesty, integrity, courtesy and hard work.
- **Maintain Independence.** It is important you always be independent in fact as well as in appearance.
- **Learn Your Duties and Responsibilities.** Strive to improve and be ready for any opportunity for advancement.
- **Work Together as a Team.** Help each other.

- **Observe and Maintain Rules of Strict Confidentiality.** This attitude must be maintained with regard to anything learned during the course of an audit or other office activities or during the preparation of the final audit report. It extends to the auditee's employees, other auditees and their employees, your friends and family members.
- **Ask Questions and Listen Attentively.** Many problems arise because of poor communications.
- **Follow Instructions.** If you do not understand what you are being requested to do, inquire further.
- **Offer Suggestions.** Do not hesitate to make constructive suggestions as to how we can improve our operating policies and procedures.
- **Relate Effectively.** It is important you relate effectively with the governmental subdivisions or agencies you are auditing or with which you have contact.

303 Political Activity

As an employee of the Office of Auditor of State, your political activity is subject to the provisions of Chapter 721 of the Code of Iowa.

You may:

- Register to vote.
- Vote in any primary or general election for the candidate of your choice.
- Privately express your political views during off-duty hours.
- Hold any elective or appointive office which pays no more than a token amount.
- Make voluntary contributions to political parties or candidates.

You may not:

- Transport political literature or candidates for elective office in a state vehicle.
- Solicit contributions for any political party or person seeking elective office during your working hours.
- Solicit votes or engage in election campaign activities during your working hours.

304 Legislative Contacts

As a citizen, you have the right to visit with or otherwise petition your legislators or congressional representatives regarding matters of interest to you. However, because of Chapter 68B of the Code of Iowa, only employees who are designated by the Auditor of State and who are registered as lobbyists may represent official positions of the Office during legislative contacts.

For all contacts you initiate regarding issues which relate to the Office of Auditor of State and its operations, you must indicate you are speaking as an individual and not as a representative of the Office. If you receive any requests pertaining to Office matters from legislators, legislative committees, representatives or staff, you must refer those requests directly to your Division Deputy, the Chief of Staff or the Auditor of State. See the Audit Manual for more information.

305 Gift Law

All State employees, including their immediate family members, are subject to the gift law prescribed in Chapter 68B of the Code of Iowa. The statute prohibits public employees from accepting, receiving or soliciting gifts, valued at more than \$3.00 from any person, lobbyist or entity doing business with or lobbying their employing department.

306 Lawsuits

Chapter 669 of the Code of Iowa provides the State will defend and indemnify its employees against monetary claims alleging negligent or wrongful acts or omissions while acting within the scope of the employee's office or employment. The State is relieved of its obligation if the employee's conduct is determined to be a willful and wanton act or omission or malfeasance in office.

If you are served with notice of a claim or lawsuit, you should immediately notify the Chief of Staff, who will notify the Attorney General's Office. Failure to make these notifications may result in a default judgment against you and jeopardize your right to a defense and indemnification by the State of Iowa.

307 Personal Action

The following are examples of types of behavior that do not contribute to the goals of this Office and, therefore, are not acceptable:

- Wasting time, loafing, loitering or gossiping.
- Poor attendance record, abuse of sick leave and improper notification of unscheduled absences.
- Use of profanity, abusive or threatening language, or discriminatory slurs; to another employee, an auditee or the public.
- Use of alcoholic beverages during working hours and/or use (except by medical prescription) or distribution of controlled substances. (See the Audit Manual.)
- Deliberate and willful refusal to comply with lawful instructions of a supervisor.
- Use of state property, equipment or materials for personal gain, to the detriment of the State, or conducting personal business on paid time. (See Chapter 721.2 of the Code of Iowa.)
- Engaging in unauthorized personal business while on duty;
- Any conduct tending to bring discredit to the Office of Auditor of State.

308 Disciplinary Action

All employees are expected to perform their duties in a professional and competent manner. All employees serve at the pleasure of the Auditor of State. While all employees are at-will status, progressive discipline will be employed in most cases to address job-related behavior that does not meet expected and communicated performance standards. The goal of progressive discipline is to place the employee on notice so that he/she understands that performance improvement is essential for continued employment. The severity of the discipline increases with the repetition or seriousness of the violation.

Any employee is subject to progressive discipline which includes counseling, written reprimand, probation, suspension, demotion or discharge for just cause, including, but not limited to: incompetence, continued failure to adequately perform assigned duties, dishonesty, insubordination, negligence, improper use of leave, unrehabilitated substance abuse, conduct adversely affecting the employee's performance, conduct damaging to the integrity or reputation of the Office or other misconduct.

A written notice indicating the reason for discipline, the type of disciplinary action and its duration will be provided to the employee and will be filed in the employee's personnel file. In accordance with Iowa's Open Records laws (Iowa Code sections 22.7(11)(a)(5) and 22.15), information in confidential personnel records relating to the

fact you resigned in lieu of termination, were discharged, or were demoted as the result of a disciplinary action and the documented reasons and rationale for the resignation in lieu of termination, the discharge, or the demotion may become public records.

400 OFFICIAL CONDUCT OF AUDITORS

401 Personal Procedure on Audit

The Office of Auditor of State is judged, in part, by the appearance and conduct of the audit staff. Therefore, it is essential your personal appearance is neat and you conduct yourself in a professional, businesslike manner. At all times you should be conscious of the fact the auditee and its personnel are pursuing the normal day-to-day operations of their business during the majority of the time you are performing the audit. You should exercise care and finesse when it becomes necessary to approach an employee or officer of the auditee. Your purpose should be to make the audit process as smooth as possible with as few disruptions as possible. The following items should be considered in your approach to audits:

- Be on Time at the Audit Location -- Whenever possible, the time spent at the auditee should follow the hours outlined for auditee employees. Auditors should be careful not to take extended breaks and, when breaks are taken, it should be done at a time which would least interrupt the working pattern of the auditee.
- Avoid Unnecessary Discussions and Needless Questions -- Unnecessary discussions and questions waste your time and the time of the auditee's employees.
- The Manager has complete charge of the audit and will decide questions of policy. All policy matters should be discussed with the immediate supervisor before they are presented to the auditee.
- A list of questions should be made and held for discussion at the auditee's convenience. Do not make frequent requests for information as many inquiries will appear self-evident an hour later.
- Do not discuss the affairs of the auditee, the condition of the records, your opinion on the ability of the employees, etc., unnecessarily or where the conversations can be heard by the auditee or outsiders.
- If an auditee makes a suggestion, listen to him/her. Reserve judgment until the matter has been carefully considered. Always be respectful and do not argue. If in doubt, or if the subject is of importance, advise the auditee the matter will be turned over to your immediate supervisor. Your supervisor will review the situation with the auditee and determine necessary actions.
- Avoid excessive use of the auditees' telephones. All personal calls must be limited to matters of urgent importance. Calls may be placed to the Manager or Division Deputy if clarification or assistance is needed or if there are other matters you wish to discuss with your supervisor. Auditee parking lots may be used if agreeable to the auditee.
- Do not antagonize auditees and their employees. They should be afforded courteous, dignified treatment under all circumstances. In the event of unpleasant developments or disagreements with an auditee, the incident should be reported immediately to your immediate supervisor.
- After-hour Activities -- Without infringing on personal time, the Office of Auditor of State requests after-hour activities be discreet. Employees must be especially alert to the possibility of misinterpretation of their actions and must make special efforts to ensure conduct above reproach.

402 Self-disqualification from Certain Assignments

The Auditor's Office (AOS) requires all employees to identify and disclose any conflict or potential conflict of interest that may affect job performance.

When you receive an assignment involving a person acting as a representative for any auditee with whom you have had a social, business, or other relationship of a nature that might impair your impartiality or independence, you should discuss with your immediate supervisor the possible need to be reassigned.

Each auditor is required to file an independence statement upon initial employment and annually thereafter.

403 Issuance of State Property

Auditors will be provided any materials necessary for completing an audit. While supplies are not intended for personal use, the computers, printers, scanners and monitors may be taken home for incidental use by the auditor. If it is determined the privilege is being abused, the auditor will be asked to refrain from using the computer, printer, scanner and monitor for personal use. Auditors are on the "honor" system concerning the use of supplies.

All AOS computer hardware should only have software licensed to the Office of Auditor of State. Federal copyright law prohibits copying of computer software that is in violation of the computer software licensing agreement between the software manufacturer and the software licensee. The Office of Auditor of State prohibits any action that would violate this law. Questions concerning software licenses should be brought to the attention of the Chief of Staff.

The Office maintains a local area computer network (LAN) and an electronic mail (Email) system. Files on the LAN and in Email may be accessed by others on the network and should not be considered private.

500 PERSONAL APPEARANCE AND ATTIRE

As employees of the Office of Auditor of State, the people of Iowa and our auditees hold us to a high standard. Therefore, it is very important for each of us to present a positive, professional image. Personal appearance creates a favorable or unfavorable impression on our co-workers, auditees and the public.

Our goal is to provide a workplace environment that is comfortable and inclusive for all employees. There is no required uniform or dress standard. We expect that your attire, although it may be casual office attire, will exhibit common sense and professionalism. The AOS asks that employees wear neat and clean clothes and maintain facial hair and hair in a neat and clean manner. The appropriateness of any attire is dependent upon it being worn individually or in combination with other attire in a manner which presents a professional image.

. Because our auditees' dress varies, our employees will be expected to wear various types of attire, ranging from traditional business attire to casual office attire. All auditors at an auditee site in the field whether at a county, city, court, or state agency must always dress in a manner that meets or exceeds the dress style of the auditee. If the auditee's dress code permits casual dress on Fridays, AOS employees may wear causal dress at the audit site on Fridays.

If the auditee and/or individuals which employees are meeting or working with dress above casual office attire, employees are expected to match their level of dress or wear traditional business attire. On occasion, Incharges and/or Managers may require employees to wear traditional business attire even though they may be working with individuals who dress

casually. Those decisions are to be made based on the Incharge's and/or Manager's assessment of the effects different attire would have on those with whom we are working.

The success of this policy rests with the good judgment of every AOS employee. If an employee's clothing is not appropriate and does not project a professional image, it is expected the employee's supervisor and/or others within the Office will respectfully discuss the concern with the employee. Repeated occurrences of wearing inappropriate attire may result in individual disciplinary action or a more restrictive dress code policy for the Office.

Any employee requiring prolonged dress code exceptions for emergencies, medical conditions or other circumstances should request approval from the Auditor of State.

600 EMPLOYMENT INFORMATION

601 Probation

The first six months of state employment is a probationary period, during which the employee and the Office determine if the new employee is compatible with the job. During this period, employees will be evaluated regarding their progress in learning and performing the responsibilities of their job.

During this time, employees accrue all vacation, sick leave, holiday and other state benefits. However, employees are not granted the rights of transfer, reinstatement or appeal and may be terminated at any time during the probationary period without a finding of cause or a statement of reason if, in the opinion of the Auditor of State, further employment would not be in the best interest of the Office. The probationary period may be extended as a result of the evaluation process. [See the Audit Manual, Evaluation of Auditor Performance.]

602 Performance Evaluation

During your first few days of employment, your job responsibilities and the expected results applicable to your position will be reviewed with you.

Your performance will be reviewed and rated periodically according to those job responsibilities and expected results. Evaluations will be based upon honest, factual information regarding on-the-job performance. A memorandum of each review will be kept on file.

When it is time for your review, you and your reviewer will discuss how well these responsibilities and standards have been fulfilled. During this review, you will have the opportunity to make plans for the next review period and to ask questions, discuss problems and make suggestions and future plans for yourself in relation to your position and the Office. [See the Audit Manual, Evaluation of Auditor Performance.]

603 Pay Increases

All employees are eligible for periodic pay increases based on job performance. However, such increases are subject to authorization and funding by the General Assembly. Whenever funding for periodic pay increases is suspended by the General Assembly, the rules providing for periodic pay increase consideration are also suspended for an equivalent length of time.

Periodic pay increases are not automatic, retroactive or in advance of the pay increase eligibility date. All pay increases will be determined by the Auditor of State based on recommendations of Management, substantiated by current job performance evaluations.

Any employee who is promoted within the Office to a position in a class with a higher pay grade is eligible for a promotional increase. The timing and amount of such an increase will be determined by the Auditor of State.

A new pay increase eligibility date is established whenever a periodic pay increase or a promotional pay increase is granted.

Employees who pass the examination required to become a Certified Public Accountant (CPA), Certified Fraud Examiner (CFE) or Certified Internal Auditor (CIA) are eligible for a pay increase, as determined by the Auditor of State.

604 Termination of Employment

604.1 Resignation

If an employee decides to resign, at least a two week notice (not including any scheduled absence) is required. The two week requirement may be waived by the Auditor of State for extenuating circumstances. A written letter of resignation stating the termination date should be submitted to the Auditor of State. The employee should also contact the Executive Assistant at the AOS reception area in the Lucas building for a check-out sheet to use as a guide to ensure all questions have been addressed, necessary paperwork is processed and office materials and equipment have been turned in by the last day of employment.

604.2 Abandonment of Position

All employees are required to notify their immediate supervisor in the event of an unscheduled absence. Employees absent from duty for three consecutive days without notifying their immediate supervisor, for whatever reason, will be considered voluntarily terminated.

604.3 Discharge

In the event of continued unsatisfactory work performance and/or serious or repeated infractions of established work rules or policies, an employee may be discharged. Unauthorized disclosure of confidential information and submission of falsified time and expense reports are grounds for immediate discharge.

A letter of discharge stating the reasons for the dismissal will be provided to the employee within three working days of the action. A copy will also be placed in the employee's personnel file. [See the Audit Manual, Evaluation of Auditor Performance and Sections 11.21 and 11.42 of the Code of Iowa.]

605 Retirement from State Government

605.1 Notification

It is recommended, ninety days prior to the date you have decided as a retirement date, you should (1) send a letter to the Auditor of State indicating your intention to retire, (2) contact the Social Security Office and (3) notify the IPERS Office. Plan ahead so there will be no delay in receiving these benefits. A retirement checklist is available from the AOS HR/Payroll Coordinator to assist you in the final application process.

Your IPERS contributions and benefits are **in addition to** your Social Security contributions and benefits. You should contact your nearest Social Security office for information regarding estimates and an application for those benefits.

605.2 Iowa Public Employees' Retirement System (IPERS)

The Iowa Public Employees' Retirement System (IPERS) provides you with supplemental income when you retire. All employees under 70 years of age must contribute to the retirement system and the contributions are automatically deducted from your pay. The State of Iowa also contributes a percentage of your pay to IPERS on your behalf. Contributions are taken out pre-tax for federal and state income purposes. Refer to the IPERS retirement benefits booklet for more information. Visit www.ipers.org or call 1-800-622-3849.

605.3 Deferred Compensation

The Retirement Investors' Club (RIC) is a voluntary deferred compensation retirement savings program that allows you to set aside a portion of your salary for use as income in retirement along with your pension and Social Security benefits.

Contact your deferred compensation provider directly to obtain retirement benefits under the Retirement Investors' Club 457/401(a) and 403(b) Plans.

605.4 Sick Leave Insurance Program (SLIP) and Sick Leave Payment

The SLIP program is an opportunity for state employees who are eligible for an IPERS bona fide retirement but retire before they are eligible for Medicare to use all or part of their unused sick leave balance to pay the employer's share of their health insurance premiums after they retire or until such time as they meet one of the ineligibility criteria.

A retiring employee may also apply for a cash payment from the State of Iowa for accrued sick leave, up to a maximum of \$2,000. In order to receive this benefit, you must have an application for retirement benefits on file with the Social Security office, even if you don't plan to begin drawing benefits at the time you retire.

605.5 Continuing Insurance Benefits at Retirement

To be eligible for continuing retiree health and dental coverage upon retirement, you must be at least age 55 by your retirement date, have applied for and receive a State of Iowa monthly pension benefit (IPERS) and inform the AOS HR/Payroll Coordinator you are retiring, complete the appropriate retirement paperwork and leave the payroll system as a retiree. Also, when you leave state employment, you may be able to continue your life insurance coverage by either porting or converting your coverage. The retiree is responsible for paying the retiree premiums for insurance coverage.

606 Personnel Files

Your personnel file contains general employment information, such as date of employment, personnel transactions, copies of benefits applications and withholding forms. You have the right to examine the contents of your file during standard office hours.

Various credit agencies, banks, retail establishments and housing managers occasionally call for verification of employment. The caller must identify the company represented. An employee's position and dates of employment are the only facts given over the phone. All other employee verification requests must be submitted in writing. Employee permission to give out the requested information may be necessary.

Personnel files are maintained in accordance with the Iowa Fair Information Practices Act, Section 22.11 of the Code of Iowa.

607 Updating Your Records

An employee's personnel file needs to be accurate and current. Employees can update their address, phone number, emergency contacts and email themselves in the AOS Personnel database. Employees should immediately send an email to HR@AOS.iowa.gov to notify the office of any changes in marital status, dependents or name change. Necessary forms to update personal data will be provided. Beneficiary forms for IPERS, life insurance and deferred compensation should be reviewed and updated periodically. Filling out a new beneficiary form will automatically replace the old one.

608 Personal Property

If you wish to bring personal property to your work area, such as clocks, radios, art objects, plants, paintings and lamps, it is done at your own risk. The Office of Auditor of State, as the employer, accepts no responsibility for the loss of or damage to any personal property of any employee.

In considering what personal property you may wish to bring, please note use of headphones or ear buds is acceptable at the Office but use of headphones or ear buds at a client site is at the discretion of the in-charge and/or manager. Radios may be played if they do not disturb others.

Use of equipment must be in accordance with the Information Systems Policies.

609 Record Retention and Disposition

The Office maintains a records management system to promote the maintenance and security of records (including electronic records) deemed appropriate for preservation, to facilitate the segregation and disposal of records of temporary value, and to provide for compliance with the rules adopted by the State Records Commission.

The Administration Division maintains record retention and disposition for the Office.

700 PAYROLL INFORMATION

701 Time Reporting

Time sheets are used to report your work time during each biweekly pay period and are essential for you to be paid appropriately and to ensure accurate billing to clients.

Accurate reporting of time and attendance is very important, and it is the responsibility of the employee to see it is properly prepared and submitted.

Time sheet data must be submitted electronically by noon on Friday following the end of the pay period. Your supervisor will then review, approve and submit your time sheet. You will be advised if an earlier deadline is required due to State holidays or other reasons. If it becomes impossible to have your timesheet submitted by the deadline, it is necessary to contact your supervisor or phone in your work time.

702 Pay Periods

The biweekly pay period for State employees begins on a Friday and ends on a Thursday. Your pay is available on Friday of the week following the end of the pay period and is not available prior to that day.

For example:

Friday, June 01, 20XX----- 1st Day of Pay Period

Thursday, June 14, 20XX----- Last Day of Pay Period

Friday, June 22, 20XX----- Pay date -- Payroll Issued

When the pay date falls on a State holiday, payroll is usually available the day before. The Department of Administrative Services (DAS) *Pay Period Calendar* gives specific pay period dates each year and is obtained at the Lucas Building AOS Front Desk or from the AOS HR/Payroll Coordinator.

If you believe a mistake has been made on your payroll, immediately contact the AOS HR/Payroll Coordinator, who will advise you on what action needs to be taken.

703 Earnings Statements

An earnings statement, which details your salary, deductions and accrued/used vacation and sick leave for both the current pay period and on a year-to-date basis, is available. Employees are encouraged to check their pay stub each pay period and contact the AOS HR/Payroll Coordinator or your Supervisor if there are questions.

Federal and state income taxes, FICA (Social Security) and IPERS (Iowa Public Employees' Retirement System) will be deducted from your salary as required by law.

704 Direct Deposit Program

Your net pay may be deposited into an account at your chosen financial institution. After direct deposit is set up, an earnings statement will be available on the Online Warrant System notifying you your net pay has been deposited according to your instructions. Expense reimbursements may be deposited in this same account by selecting the appropriate box on your travel claim form. Payment details for expense reimbursements are not part of the Online Payroll Warrant System and a hard copy of the payment detail will be provided. The Iowa Online Payroll Warrant can be found at <https://www.egov.state.ia.us/warrants/warrantProcessorServlet>

705 Premium Conversion Pretax Program

The State's Premium Conversion Program offers a way of funding an employee's insurance premiums for group health, dental and supplemental life insurance policies with pretax dollars. Amounts you contribute to the program are not taxed for federal or state income taxes or Social Security. You are automatically enrolled in this program unless you elect out. Contact the AOS HR/Payroll Coordinator to elect not to participate in this program.

800 EMPLOYEE BENEFITS

The State of Iowa's health insurance plans offer a variety of health benefits, plan designs and out-of-pocket costs which allow you to choose the best health coverage which meets the needs of you and your family.

Detailed benefit information can be found on the Department of Administrative Services benefits website: <http://benefits.iowa.gov>

IowaBenefits is the State of Iowa's online system which allows you to enroll or make changes in your health, dental, life and flexible spending accounts benefits. Employees will register, create a username and password and enroll in benefits within 30 days of employment.

801 Insurance

Insurance coverage starts the first of the month after 30 days of continuous employment. Employees elect single or family insurance benefits or decline coverage in IowaBenefits. You can make changes to your benefit selections within 30 days of employment, with a qualifying life event or during open enrollment. During open

enrollment each year the Department of Administrative Services gives insurance rates and options for the following year.

801.1 Types of Insurance

- **Health Insurance**

Employees have one health plan with two provider network options to choose from.

If you choose to opt-out of a state-sponsored health insurance plan and are not covered by a State plan (active or retired) through a family member, including a domestic partner, you are eligible to receive \$125 per month paid on the first pay warrant of the month and taxed as part of your income.

- **Dental Insurance**

The dental insurance plan provides coverage for a broad range of preventative services and comprehensive coverage for most conditions requiring dental diagnosis and treatment, including orthodontic treatment for children.

- **Vision Discount Program through Dental Insurance**

The vision discount program provides discounts on eye exams and discounted pricing for lenses and lens options through a vision partnership with Delta Dental and EyeMed Vision Care.

- **Basic Term Life Insurance**

The State provides a term life insurance benefit of \$20,000. The State pays the full cost of this life insurance coverage.

- **Supplemental Term Life Insurance**

Eligible employees may purchase additional supplemental life insurance at their own cost.

- **Accidental Death and Dismemberment Insurance**

The State provides accidental death and dismemberment insurance of \$20,000. The State pays the full cost of this insurance coverage.

- **Long Term Disability Insurance**

The State provides long term disability insurance if you become disabled. The State pays the full cost of this insurance coverage.

802 Wellness Program

Through the State's wellness program, "Healthy Opportunities", a variety of wellness services are available to employees, such as discounts at fitness centers, wellness information, nutrition assessment tool, recreational opportunities, webcasts and stop-smoking assistance. The "Healthy Opportunities" Wellness Program website can be accessed at: <https://das.iowa.gov/human-resources/healthy-opportunities>

803 Additional Benefits

803.1 Employee Assistance Program (EAP)

This program is a confidential, professional service to help you and your family members deal with problems before they begin to affect your health, happiness or success.

803.2 Employee Discount Programs (EDP)

This program allows you to save money by offering savings on popular goods and services.

803.3 Flexible Spending Accounts

You may defer up to \$2,650 per year for unreimbursed health and dental expenses on a pre-tax basis and up to \$5,000 per year for dependent care expenses on a pre-tax basis.

803.4 Workers' Compensation

All employees are covered by the State of Iowa Worker's Compensation law. The law covers on-the-job accidents and occupational diseases. Benefits are determined by the State of Iowa statute.

803.5 Lactation Rooms on the Capitol Complex

There are eight lactation rooms available for use on the Capitol Complex.

803.6 Credit Union membership eligibility

As a state employee, you may join one of several credit unions which are authorized for payroll deduction. Payroll deduction is limited to one credit union, but that credit union may disburse your money to multiple accounts or loan payments.

803.7 State Employee Charity Campaigns

State employees may voluntarily participate in annual charity campaigns and blood drives. Through payroll deduction, you may designate contributions to the charities of your choice through the One Gift Campaign. You will also be provided opportunities to participate in Toys for Tots and the Food Bank, in addition to other charity campaigns.

804 Educational Assistance Program

Employees of the Office of Auditor of State are entitled to consideration for the benefits provided under this program.

Within funding constraints, every effort shall be made to assist individuals seeking to pursue relevant educational opportunities outside the scope of the training calendar. Educational activities that relate to the type of work performed by the Office shall be eligible for reimbursement. Also, relevant courses that contribute to the type of work performed by the office and qualify towards the 150-hour education requirement needed to be awarded a CPA certificate shall be eligible for reimbursement.

When approval has been given prior to enrolling in an educational opportunity, an individual may be reimbursed up to 50% of the costs of tuition. Prior to reimbursement, employees must submit an original paid receipt from the academic institution and proof of their successful completion of the course. Successful completion of the course will require a final grade of "C" or better. The State of Iowa requires employees to sign an Agreement for Recouping Education Payments agreement when requesting educational financial assistance for educational institution coursework at accredited educational institutions.

All professional development reimbursements are subject to a maximum reimbursement of \$2,500 for a three-consecutive fiscal-year period.

If you are interested in taking advantage of this program, see the Audit Manual and contact the Training Coordinator for detailed information and application forms.

804.1 Professional Certification (CPA/CIA/CFE)

Achieving the professional certification of Certified Public Accountant (CPA), Certified Internal Auditor (CIA) or the Certified Fraud Examiner (CFE) indicates a commitment to excellence and professionalism in the accounting/auditing field. Therefore, all eligible auditors are strongly encouraged to continuously pursue these certifications until achieved, unless the requirement is waived in accordance with the Audit Manual.

Possession of such certification, or progress toward achieving such certification, is a requirement for promotion to certain positions within the Office. See the Professional Development section of the Audit Manual.

804.2 Training Expenses

Expenses for approved training courses will be reimbursed in accordance with policies appropriate for each type of course. Contact the Training Coordinator for details.

805 Leave Programs

You must obtain approval if you wish to take a leave. Your immediate supervisor should be given notification of doctor or dental appointments as early as possible. In instances of sick or family care leave where prior approval is not possible, contact your immediate supervisor within 1/2 hour of your normal starting time if you will not be able to come to work. If you become sick or learn you need to take leave while you are at work, contact your immediate supervisor prior to your departure.

805.1 Vacation

Vacation leave is determined by an employee's length of service with the State. Permanent full-time employees who are paid 80 hours in a biweekly time period accrue vacation at the following rates:

- 1 – 4 years of service = 2 weeks (80 hours) per year
- 5-11 years of service = 3 weeks (120 hours) per year
- 12-19 years of service = 4 weeks (160 hours) per year
- 20-24 years of service = 4.4 weeks (176 hours) per year
- 25 or more years of service = 5 weeks (200 hours) per year

- Additionally, two unscheduled holidays per year are accrued as vacation.
- For part-time employees and employees who are paid under 80 hours biweekly, the vacation accrual rate is prorated based on the number of paid hours. Temporary or seasonal employees and interns do not earn vacation. No vacation leave is accrued during leave without pay.
- Vacation can be taken only as it is accrued each pay period and cannot be taken before it is credited to the employee's leave account.
- Employees can accrue up to two times their annual maximum vacation entitlement, including unscheduled holidays accrued as vacation. An employee's maximum vacation accrual may be increased by up to 96 hours if the employee elects to convert sick leave to vacation.
- Vacation may only be taken upon approval. A written vacation request form must be submitted for vacations of 1 day or more.
- For audit staff, the requests are subject to the approval of a division deputy. For support staff, the requests are subject to the approval of their immediate supervisor.

- Requests for vacations of less than 1 day may be made verbally and may be approved by your Manager or immediate supervisor for the requested day off.
- A vacation request form must be submitted at least 1 month in advance when the leave is for a period of 1 week or more.
- Consideration is given to the efficient operations of the Office in the scheduling of vacations. While we will always try to schedule vacations according to your requests, this may not always be possible.
- Requests by audit staff for vacation time during “Extended Hour” periods or during scheduled training will not be approved except in extenuating circumstances. The “Extended Hour” periods generally run from the second week of September through mid-December.
- The Auditor of State may require employees to take vacation whenever it would be in the best interests of the Office. Employees will be given reasonable notice of the Auditor of State's decision to require the use of accrued vacation. However, employees will not be required to reduce accrued vacation to less than 80 hours.
- If you transfer to another State agency, including one of the State universities or the Department of Transportation, your accrued vacation will be transferred to that agency.
- Upon termination (if you leave State employment), you will be paid for any vacation leave you have accrued and not yet used. The lump sum amount will be included in your last payroll and will be taxed at the regular rates unless you sign a form authorizing a one-time-only special tax rate or increase your final Retirement Investment Club deduction, subject to State guidelines. These forms are available from the AOS HR/Payroll Coordinator.

805.2 Holidays

Employees who accrue vacation and sick leave are entitled to the following nine (9) fixed holidays:

- New Year's Day
- Martin Luther King, Jr. Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day

Two additional unscheduled holidays are accrued as vacation.

If a holiday listed above falls on a Saturday, it will be observed on the previous Friday. If a holiday falls on a Sunday, it will be observed the following Monday. Unpaid leave may not be taken the day before or the day after the holiday in order to receive holiday pay. For part-time employees and employees who are paid under 80 hours biweekly, holiday compensation is prorated based on the number of paid hours.

805.3 Sick Leave

Permanent full-time employees accrue the following sick leave hours each month:

0 to 750 hours = 12 hours monthly accrual rate
Over 750 hours to 1,500 hours = 8 hours monthly accrual rate
Over 1,500 hours = 4 hours monthly accrual rate

Part-time employees accrue prorated amounts of sick leave based on the number of hours paid. Employees do not accrue sick leave while on leave without pay.

Sick leave is a benefit and not a right. It is to be used in cases of need and is not to be used simply because it is there. Your normal annual usage of sick leave is expected to be considerably less than the 18 days accrued. This accrual rate is a form of protection for you in the event of serious illness. Misuse of sick leave is not only to your disadvantage, but it imposes a hardship on your fellow employees and may result in disciplinary action.

You may use sick leave:

- During a serious illness or while recovering from an injury that would impair your ability to adequately perform your duties.
- When exposed to a contagious disease that would jeopardize the health of others.
- For travel time to and the duration of a doctor, dentist or optical examination or appointment.

You may not use sick leave:

- For vacation leave.
- Before it is accrued.
- During a previously approved vacation.

Usage will be charged against your sick leave, based upon your assigned work hours during the time sick leave is used. Officially designated holidays falling within a period of sick leave are not charged against sick leave.

Verification of the illness or injury may be required.

805.4 Sick Leave Conversion

You may convert your sick leave to vacation under the sick leave conversion program. Once you have accumulated a sick leave balance of at least 240 hours, you may convert your monthly accumulations of sick leave to vacation at the rate of 3 to 1, providing you have not used any sick leave during the prior calendar month (i.e., 12 hours sick leave is converted into 4 hours of vacation). Sick leave conversion occurs in the pay period that has the first of the month in it.

If you convert sick leave, you may accumulate up to an additional 12 days (96 hours) of vacation leave, over and above your annual vacation and unscheduled holiday entitlement.

Contact the AOS HR/Payroll Coordinator to enroll in the conversion program.

805.5 Family Care Leave

In addition to the use of sick leave for personal illness, a portion of your accrued sick leave, not to exceed 40 hours per fiscal year, may be used:

- For the temporary care of, or necessary attention to, members of your immediate family during a time of illness.
- When a death occurs in your immediate family.
- When an employee is a pallbearer or funeral attendant for a non-family member.

"Immediate family" includes: spouse, children, parents, foster parents, stepparents, grandparents, grandchildren, foster children, stepchildren, legal wards, brothers, foster brothers, stepbrothers, sons-in-law, brothers-in-law, sisters, foster sisters, stepsisters, daughters-in-law, sisters-in-law, aunts, uncles, nieces, nephews, first cousins, corresponding relatives of your spouse or other persons who are members of your household.

805.6 Family Medical Leave Act (FMLA)

The Family and Medical Leave Act (FMLA) guarantees employees the right to take leave without loss of employment or status. Employees who have been employed by the State for a total of 12 months in the past seven years and have worked at least 1,250 hours during the previous 12 month period are eligible to take unpaid leave or earned paid leave, up to 12 work weeks in any 12 months. Documentation is required under the law and FMLA may be used for:

- The birth of a son or daughter and to care for the newborn child.
- Placement with you of a son or daughter for adoption or foster care.
- To care for your spouse, son, daughter or parent with a serious health condition.
- Because of a serious health condition that makes you unable to perform the functions of your job.
- Because of any qualifying exigency arising out of the fact your spouse, son, daughter or parent is a covered military member on active duty, or has been notified of an impending call or order to active duty in support of a contingency operation.

805.7 Parental Leave

Absences for Parental leave are covered under FMLA. Parental leave time is approved by the Auditor of State and documentation is required per FMLA. Maternity leave may include sick time used for the portion of time during or following pregnancy and vacation time may be used to bond or care for the newborn. State of Iowa policy limits paternity leave to 40 hours of Family Care Leave (if the employee has the time available) during or following the pregnancy. Vacation time may be used to care for mother and to bond or care for the newborn. If sick leave or family care leave and vacation leave are exhausted, leave without pay may be requested.

805.8 Court or Jury Service

If you are subpoenaed or otherwise directed by a proper authority to appear as a witness or jury member in any public or private litigation, you are entitled to a leave of absence from duty with your regular pay. However, you must give the Office all jury and witness pay received, other than reimbursement for necessary travel or personal expenses.

Alternatively, you may elect to keep the jury pay if you take a leave of absence without pay or vacation leave for the time spent on court or jury service.

If you choose to continue receiving your regular pay during the time of your court or jury service, you should report to work when your court or jury service will not begin until at least two hours after your scheduled starting time and when you are released from court or jury service with at least two hours remaining in the scheduled work day. If you choose not to report to work at these times, you must take a leave of absence without pay or vacation for that time.

805.9 Military Leave

An employee who is a member of the military, national guard or reserves of the State of Iowa or the United States will be granted leave from work for a maximum of 30 work days in each calendar year without loss of pay or benefits for the time spent on active duty or inactive state or federal military service. A returning veteran who is reemployed, and who meets the Uniformed Services Employment and Reemployment Rights Act (USERRA) eligibility criteria, is entitled to be treated as if continuously employed. Time limits for returning to work depend on the duration of the employee's military service.

805.10 Leave of Absence Without Pay

You may request, in writing, leave without pay for up to 1 year. Approval is at the discretion of the Auditor of State. An extension of up to 1 additional year may be granted if circumstances warrant. If you have worked at least 1 year, 12 weeks of this leave for your own or family illness may be eligible for Family Medical Leave Act (FMLA) coverage with proper documentation. Unpaid leave of more than 1 month will affect benefits.

Vacation and sick leave will not accrue while you are on leave without pay, but the leave time is considered continuous service to determine the rate at which you will accrue vacation upon your return to duty. Leave exceeding 30 days will adjust your merit increase eligibility date, if applicable. Contact the AOS HR/Payroll coordinator for more information.

805.11 Educational Leave Without Pay

You may request educational leave without pay for up to 1 year. Approval is at the discretion of the Auditor of State. When granted, you may return to your former position or one of like nature when the leave expires.

Vacation and sick leave will not accrue while you are on educational leave, but the leave time is considered continuous service to determine the rate at which you will accrue vacation upon your return to duty. Leave exceeding 30 days will adjust your merit increase eligibility date, if applicable.

805.12 Inclement Weather

In the event of inclement weather, the Department of Administrative Services will determine if state offices in the Des Moines area will remain open. The closing of State offices is announced over radio and television.

When State offices are closed, you may elect one of the following: (1) vacation, (2) leave without pay, (3) take work home (with supervisory approval) or (4) make-up work at another time during the same pay period (with supervisory approval). You may also elect to work your regularly

scheduled hours even though the State facility is closed to the general public if it is safe to travel to your work site.

For auditors working in the field, when it is determined by proper authority the county, city, school or other auditee to which you are assigned will be closed or will close after the start of the day, you may elect one of the following: (1) vacation, (2) leave without pay, (3) take work home (with supervisory approval) or (4) make-up work at another time during the same pay period (with supervisory approval).

If the office or facility is officially open, you are expected to be at work on time. When inclement weather is determined by proper authority, and you report to work within 30 minutes of your assigned starting time, you do not have to record the time as vacation or as leave without pay. If you exceed this "grace period," the time loss beyond the first half-hour must be recorded as vacation or as leave without pay. If you do not report at all, the grace period is not allowed, and the entire amount of time missed must be recorded as vacation or as leave without pay. Alternatively, in either instance, you may make up the lost time during the remainder of the pay period if you receive supervisory approval.

Employees must follow the absence reporting procedures whenever it is not possible to report for work due to inclement weather.

805.13 Other Leave

Election leave, Voting leave, Disaster Service Volunteer leave, and Bone Marrow and Organ Donation leave are available to employees if qualifications are met and supervisory approval is obtained. Contact the AOS HR/Payroll Coordinator for more information.

805.14 Donated Leave

Employees are eligible to receive donated leave hours for a catastrophic illness and employees may donate accrued vacation hours to another State employee. A catastrophic illness means a physical or mental illness or injury that will result in the inability of the employee to work for more than 30 work days.

806 Retirement

The State of Iowa allows you to save for retirement through IPERS and the deferred compensation program. If you meet the eligibility criteria, you can also continue to participate in health, dental and life insurance benefits as a retiree. Section 605 of this handbook has more information about Retirement benefits.

- Iowa Public Employees' Retirement System (IPERS) <http://www.ipers.org>
The employee and the State of Iowa contribute a set percentage of your pretax pay to IPERS. The employee contribution is deducted from your check automatically.
- Deferred Compensation Plan - Retirement Investors' Club 457/401(a) Plans and Retirement Investors' Club 403(b) Plan website can be accessed at: <http://ric.iowa.gov> The Retirement Investors' Club (RIC), administered by the Department of Administrative Services, is an employer-sponsored voluntary retirement savings program and is designed to supplement IPERS and social security benefits at retirement.
- Sick Leave Insurance Program (SLIP)

State employees who are eligible for an IPERS bona fide retirement can use all or part of their unused sick leave balance to pay the employer's share of their health insurance premiums after they retire or until such time as they meet one of the ineligibility reasons.

807 COBRA

The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 is a Federal law which provides employees who separate from employment may continue health and dental coverage at the group rates beyond the time coverage would normally terminate. The employee pays both the employer's and the employee's share of the premium. When your employment ends, the Iowa Department of Administrative Services will mail a "COBRA Notification/Election Form" to you within two weeks following your last paycheck. The notification includes monthly benefit costs and election instructions.

900 MISCELLANEOUS EMPLOYEE INFORMATION

901 Employee Suggestion System

You are encouraged to offer suggestions to improve Office operating policies and procedures. While many of your suggestions should be made through your immediate supervisor, the Employee Suggestion System provides for written suggestions or questions to be submitted to the Employee Committee. Suggestions or questions may be submitted anonymously at I:\Suggestions, but signed suggestions or questions will result in a personal response to the submitter from the Employee Committee or Auditor of State regarding decisions on the suggestions or questions.

902 Employee Committee

An Employee Committee has been established which meets periodically to discuss topics designed to improve Office relations among all levels of employees within the Office. The Committee adopted the following as its stated purpose: "To provide a voice to all levels of staff to provide a sense of belonging and ownership in the goals of the Office. To provide upper management with another source of information on various Office related issues for use in the decision-making process." The Committee will be made up of 14 members and includes all levels of audit staff, a representative from the administrative staff and IT staff, the Auditor of State and/or their appointee.

903 Appeal Procedures

As an employee of the Office of Auditor of State, you have the right to appeal any decision affecting your employment status. If you cannot resolve the issue informally with your immediate supervisor, you may appeal the decision to progressively higher levels of management, up to the Auditor of State, whose decision will be final.

If you feel that you have been discriminated against because of race, creed, color, religion, sex, national origin, age or disability, you are encouraged to follow the above procedures or file your appeal with the Iowa Civil Rights Commission according to their rules and regulations.

1000 TRAVEL INFORMATION

1001 Travel and Expense

Your duties may require travel either in-state or out-of-state. Employees are eligible for reimbursement for travel expenses according to the reimbursement policy.

1001.1 In-State Travel

Travel must be authorized, in advance, by your immediate supervisor. Assignment to an audit constitutes approval for travel.

1001.2 Out-of-State Travel

All out-of-state travel must be approved by the Auditor of State and through the Online Travel Authorization process.

1001.3 Use of State Vehicles

State vehicles can be reserved for work related travel with proper reservations and the use of a State vehicle is dependent upon the employee's driving record. The following rules apply to the use of state vehicles:

- Only state employees and other individuals authorized to conduct state business may drive or be a passenger in a state vehicle. Regulations published by the State Vehicle Dispatcher state, "Under no circumstances may spouses, children, relatives or any other unauthorized non-state employee drive or be passengers in a state owned or leased vehicle."
- You must complete an AOS Vehicle Reservation form to reserve a state vehicle. The form is available on the AOS network and is submitted to the Car Reservations email group on the Groupwise email system.
- You must submit a Vehicle Usage report upon completion of your trip. The form is available electronically on the AOS network and is part of your Travel Payment Document.
- Depending on the employee's driving record, the Department of Administrative Services may incorporate a corrective action plan the driver must participate in if operating a State vehicle.

1002 Travel Time

It is inherent with a job as an auditor you will be required to travel. An audit assignment may require you to stay overnight or commute to various locations on a daily basis.

Please remember you are representing the State of Iowa and the Office of Auditor of State. We ask that you conduct yourself professionally at all times, whether at the auditee site, lodging or area restaurants.

The following should be considered when planning your travel:

1002.1 Car-pooling

Car-pooling from the official domicile (the Capitol Complex for individuals domiciled in Des Moines) is required unless the Manager on the assigned audit has approved an auditor to drive individually to the audit site or to another site at which the auditor will join the carpool. If, for personal reasons, you wish to drive your own vehicle to the audit site instead of car-pooling, no mileage reimbursement is allowed.

1002.2 Commuting Assignments

When not car-pooling, you may commute to and from any job you choose. However, you will be limited to claiming a maximum of 120 miles per day (round trip) unless your Manager has waived this requirement for specific assignments.

Auditors are expected to leave home in time to arrive at the work site at the agreed upon time with the auditee. This applies each day of the audit, including the first day. Each auditor will work their assigned schedule each day.

1002.3 One-Day Commuting Assignments

Traveling to an audit site for one day only will be considered a one day commuting assignment.

Each auditor will leave at a designated time, unless another time has been assigned. The time from your departure until your arrival at the assigned location should be recorded as travel time on your time sheet.

You will work the balance of the day until the assignment is complete and should record travel time at the end of the day. Travel time at the end of the day should be recorded on your time sheet in the same manner as at the beginning of the day.

1002.4 Overnight Assignments

The time from your departure until your arrival at the assigned location should be recorded as travel time on your time sheet except when you are working on an assignment that has been requested by and will be paid for by a third party (e.g. pre-award surveys).

You will work the balance of your assigned hours on Monday and assigned hours each day until the last day of your work week. Travel time at the end of the week should be recorded on your time sheet in the same manner as at the beginning of the week.

1002.5 Travel Exceptions

At the request of an employee, an employee may have their travel restricted to exclude overnight travel for a period of one year following a major life event. Employees experiencing a major life event, such as the birth or death of a child, adoption of a child, or death of a spouse or other cohabitating adult, may request to have no overnight travel for up to twelve months following such an event.

1003 Official Domiciles

According to rules established by the Department of Administrative Services - State Accounting Enterprise, each employee is assigned an official domicile, according to where the employee is primarily assigned to work. Your official domicile is initially determined at the time you are hired or when you receive subsequent approval for a change in domicile. An individual's official domicile is important because it determines the geographic point from which the maximum reimbursable mileage is calculated for job related travel. It also determines the official departure point for calculating and charging travel time.

1004 Travel Payments

Travel payment claims are to be submitted for reimbursement at the completion of each pay period, along with your timesheet. You will be reimbursed for travel expenses within established limits. We encourage you to be conservative with state funds and your own so traveling will not put an unnecessary burden on your budget. All travel payments must be approved by a Manager before the employee will be reimbursed. Receipts may contain only items that are eligible for reimbursement. All submitted receipts are public records. Travel payments must be submitted within 30 days of completion of travel per DAS Procedure Number 210.100.

1005 In-State Travel Expenses

While you are traveling on official business, your travel expenses will be reimbursed according to the following policy.

1005.1 Meals

While away from your official domicile, your reimbursement is limited to the actual cost, not to exceed a total of \$37.00 for three meals per day, if eligible. If you return to your official domicile after 7:00 p.m., you are entitled to reimbursement for an evening meal. However, you cannot receive reimbursement for any meals after arrival in your official domicile.

It is not appropriate to charge time spent for meals to travel time or to an assigned job. It is also not appropriate to use time spent eating meals in determining whether your departure time from or return time to your official domicile meets these guidelines.

Meal expenses are governed by specific meal allowances, as follows:

- * Breakfast-- \$8.00 - Leave before 6:00 a.m.
- * Lunch----- \$10.00
- * Dinner ---- \$19.00 - Return after 7:00 p.m.

Departure and return time must be stated on your travel payment when claiming breakfast or dinner.

Itemized receipts are required to claim meal reimbursements.

1005.2 Lodging

While away from your official domicile overnight, your reimbursement is limited to a maximum of \$65.00 per night, plus applicable taxes. Receipts for lodging must be attached to the travel payment. Many hotels and motels provide a reduced government rate when requested at the time you make reservations. The Department of Administrative Services provides a Hotel, Motel and B&B Guide of contract rates for participating places in Iowa, <https://das.iowa.gov/procurement/agencies/hotel-motel-and-bb-listing>

You may also choose accommodations through a website such as AirB&B. Reimbursement for such expenses is subject to the same maximum rate. Approval of spending additional public resources on accommodations over the state rate will not be granted unless the employee has reviewed AirB&B and found no private accommodations in the vicinity at or below the state rate.

Lodging rate exceptions include, but are not limited to, (1) when there is only one lodging facility in the town, (2) when an employee is attending an in-state conference at a lodging facility which is above state limits and it is necessary

to stay at the conference site and (3) the employee is staying in a town where there is a major event that limits available rooms in that city.

Prior approval by the Manager is required to exceed the maximum lodging reimbursement rate. Any lodging expense in excess of the reimbursement rate must be explained in an attachment to your expense claim and must be signed by the Manager and the Auditor of State.

If an auditor has family or friends close to the client site, **and with prior written approval from the audit manager**, an auditor may stay with family/friends in lieu of hotel and receive mileage reimbursement up to the amount the auditor would have paid for lodging.

1005.3 Mileage

State vehicles are available for all work related travel with proper reservations. However, it may be necessary for you to drive your personal vehicle. The mileage reimbursement rate for driving your personal vehicle is \$0.39 per business mile according to the DAS-SAE policy. Mileage incurred within your official domicile or place of residence is not reimbursable.

1006 Out-of-State Travel Expenses

If an employee wishes to use a department travel purchasing card for airfare and registration fees, the employee should contact the AOS Administrative staff.

1006.1 Meals, Lodging, and Airfare

Reimbursable out-of-state meal, lodging and airfare expenses will vary based on the location and whether the expense is incurred for normal business duties or as part of a conference or convention. Receipts are required for out-of-state travel.

1006.2 Mileage

The same policy applies to both in-state and out-of-state travel.

Employees who are authorized by the Auditor of State, may be reimbursed the cost of mileage, not to exceed the cost of coach air fare to the air terminal nearest their destination, plus expenses incurred to the final destination and subsistence allowance en route. Out-of-state subsistence allowance will only be allowed for the number of meals and nights lodging which would have been necessary had the employee used the available common carrier to the destination instead of their personal vehicle.

1007 Other Expenses

1007.1 Special Expenses

Certain parking fees, registration fees and other miscellaneous expenses incurred while performing your job will be reimbursed if approved by your Manager or other immediate supervisor and substantiated by proper receipts and documentation. However, advance approval by the Department of Administrative Services may be necessary in certain circumstances.

1007.2 Moving Expenses

Moving expenses may be paid by the Office of Auditor of State if the move is for the benefit of the State and not for the benefit or convenience of the individual. Prior approval of the Auditor of State must be obtained for employees to be reimbursed for moving expenses.

2000 INFORMATION SYSTEMS POLICIES

The Office of Auditor of State (AOS) aims to protect and maintain the confidentiality of all data, computer applications, and computer networks that are part of the AOS' Information Systems. This protection includes, but is not limited to, the AOS network, computers connecting to the network, laptops, database storage, electronic records, and electronic mail.

Access to and use of AOS electronic resources, including software, hardware devices, and network systems are provided to effectively and efficiently accomplish the AOS mission and to facilitate AOS and State of Iowa communications.

AOS management recognizes the need to provide staff with adequate equipment and software provide staff adequate guidance for appropriate and effective use and provide adequate staff training.

AOS management also recognizes the need to protect IT resources, the same as it would for any other valuable asset.

Data sensitivity influences the determination of applicable laws and regulations to be used for AOS IT policy development and, thus, provides a basis for AOS IT policies. In general, the AOS information-processing environment involves various types of sensitive data requiring appropriate handling restrictions. It is important to protect public confidence in, and the integrity of, the Office of Auditor of State.

By using AOS hardware, software and network systems, AOS employees assume personal responsibility for their appropriate use and agree to comply with this policy and other applicable policies, as well as state and federal laws and regulations.

Although access to information and information technology is essential to the AOS mission, use of AOS electronic services is a revocable privilege. Conformance with acceptable use, as expressed in these policies, is required.

2001 General

2001.1 General Policies

AOS IT policies apply to AOS-related work performed within and outside of AOS facilities. AOS facilities include assigned audit sites.

Use of resources (e.g., facilities, networks, applications, etc.) is authorized for conducting official AOS business only by authorized personnel, including any computer workstations, laptops and peripheral devices that have been provided to AOS staff for business outside AOS facilities.

The responsibility for obtaining, maintaining and updating computer equipment and software, assigning equipment to specific individuals and authorizing access to the AOS network and state controlled mainframe computer systems is assigned to the Chief of Staff, with assistance from the AOS IT staff. This responsibility is subject to review and concurrence of the Auditor of State.

Employees should, within their capabilities, protect AOS information and system/network resources against occurrences of sabotage, tampering, thefts, denial of service, fraud, misuse or release of information to unauthorized persons.

Any form of harassment by electronic or any other means is strictly prohibited and is cause for disciplinary action, including termination.

2001.2 Policy Exceptions

The Auditor of State or Chief of Staff, after careful consideration of any legal, ethical and/or security issues, may permit exceptions to AOS IT computer policies.

2001.3 Personal Use

Use of resources (e.g., facilities, networks, applications, etc.) is authorized for conducting official AOS business and should not be used for any private purposes and for personal gain, to the detriment of the State. (See Chapter 721.2, paragraph 5 of the Code of Iowa.) Incidental personal use is allowed in accordance with guidance provided by an opinion from the Attorney General's Office as long as the personal use is incidental, not on work time, not for personal financial gain or not for political purposes.

2001.4 Monitoring

Access to AOS resources is subject to monitoring. The AOS retains the right to access and monitor usage. Employees do not have any personal privacy rights regarding their use of the AOS Information Systems. All AOS Information Systems and any matter created, received, accessed, stored, or transmitted via AOS Information Systems are the property of the AOS. Employees should always be aware that any electronic communication in the office could be considered public information and disclosed pursuant to a Sunshine Law request or a court order. Obtaining access to AOS resources constitutes acknowledgment these monitoring activities may be conducted.

2001.5 Minimum Expectations of Users

All staff should:

- Use AOS provided resources for State government related activities and not for personal business.
- Respect the legal protection by copyright and licenses to programs and data.
- Respect the privileges of other users.
- Respect the integrity of all computing systems.
- Comply with the unacceptable uses listed in Section 2004.2 or any policy issued by the Office of Auditor of State.
- Avoid uses of resources that reflect poorly on the AOS and State government.
- Not download any software without prior approval of the Information Technology Director.

2002 Computer and System Access

2002.1 Equipment Assignment

All AOS staff are assigned software and computer hardware devices determined to be necessary to perform their duties.

2002.2 Local Area Network

- *Access* - All staff are provided access to the AOS Network. However, access to specific directories and files may be limited based on the sensitivity or confidentiality of the information in the files. Limitations may include denial of access to certain staff, read-only access, etc. Access rights and limitations are authorized by the Information

Technology Director based on consultation with Deputies and staff and the sensitivity or confidentiality of the information.

For security reasons, only AOS IT staff have complete access to all files and directories that make up the AOS LAN.

- *Organization* - The various drives or directories on the AOS LAN are organized to provide consistent locations for efficient access by AOS staff to specific types of files. Audit reports and working papers, forms, staff schedules, audit resources and administrative files have been assigned locations on the network. For more specific information, contact AOS IT staff.
- *Personal folders* – each AOS employee is assigned a folder in the I:\Doc directory for storing all of their personal files (except audit files). Users are free to organize their personal directory to meet their own needs using subdirectories. Staff can have as many subdirectories under their name as they want, organized as they want and need, but duplication of files or folders should be avoided.

2002.3 Mainframe Access

AOS is billed for each State of Iowa mainframe user ID. Based on cost/benefit analysis, not all staff are automatically provided mainframe access rights. Our goal is to provide sufficient access for staff to perform their job duties efficiently and effectively.

Access to the State mainframe is provided based on job duties and access needs. Certain support staff need access to perform their required duties. Certain audit staff need access related to their audits on a permanent basis, while others may need it only occasionally.

To request access, contact the AOS IT staff. They will prepare and send approved forms, signed by the Chief of Staff, to the Information Technology Enterprise of the Department of Administrative Services before mainframe access is available.

Infrequent access to the mainframe or to the HRIS system for audit purposes will be provided by AOS IT staff as needed. Contact the AOS IT staff when access is needed.

2003 Physical Protection of Resources

All AOS employees are responsible for due care and safeguarding of computer equipment.

2003.1 Physical Security

You are strongly encouraged to take your laptop with you when you leave for the day. If you do not, the laptop should be locked in a drawer, if possible. If a locked drawer is not available, at a minimum, it should be out of sight in an unlocked drawer.

Everyone should be sensitive to office security. Offices should be locked when left unattended. Any strangers in your area should be approached and asked if they need assistance.

2003.2 Other Precautions

- Do not have food or beverages near your computer that could be spilled on it.

- Protect electronic devices from extreme environmental conditions. Computers should not be left in vehicles, especially in extreme heat or cold.
- Use assigned laptop backpacks and cases to carry and protect assigned laptop computers and related peripheral equipment only. The cases should not be used to carry other supplies like pens, pencils, paper clips, or rulers, which may damage the computer.
- Running electronic devices should never be placed in cabinets, drawers or bags due to the heat buildup of the device itself. All devices should be shut down completely before being stored.

2004 Appropriate Uses of Resources

Inappropriate use of AOS or State of Iowa electronic equipment is cause for disciplinary action, including dismissal.

2004.1 Acceptable Uses

- Communication and information exchange directly related to the mission, objectives and tasks of the AOS.
- Communication and exchange for professional development, to maintain current training or education or to discuss issues related to AOS activities.
- Any AOS administrative communications not requiring a high level of security.
- Communication incidental to otherwise acceptable use, except for illegal or specifically unacceptable uses.

2004.2 Unacceptable Uses

- Use for any purpose violating a federal or state law.
- Violating the rights of any person or company protected by copyright, trade secret, patent, licensing agreement or similar law/regulation, including, but not limited to, copyrighted music and the installation of any copyrighted software for which AOS does not have an active license, is strictly prohibited.
- Intentionally copying any software, program, file or data using the AOS network without a prior, good faith attempt to determine such copying is, in fact, permissible. Any efforts to obtain permission should be adequately documented.
- Using an AOS computer to actively engage in displaying, procuring or transmitting material which is in violation of any sexual harassment policy or laws, hostile workplace laws or other illegal/inappropriate activity.
- Intentionally developing programs designed to harass other users or infiltrate a computer or computing system and/or damage or alter software components.
- Accessing or distributing indecent or obscene material, pornography or other objectionable materials.
- Interfering with, disrupting or denying service to other staff on the AOS network or persons outside of the office.
- Intentionally introducing malicious programs into the network or server (e.g., viruses, worms, Trojan horses, email bombs, etc.).

- Intercepting or attempting to intercept or access data or communications intended for others.
- Intentionally seeking information on, obtaining copies of or modifying files and other data which are private, confidential or not open to public inspection or release, unless specifically authorized to do so by the file owner.
- Circumventing user authentication, changing another user's password or attempting to gain unauthorized or illegal access to any computer system or resources, including the AOS network.
- Using other staff identification and authentication information without authorization to gain network, email or Internet access.
- Revealing or exchanging staff passwords to others or allowing others to use staff accounts, including family and other household members, or seeking the passwords of other staff.
- Setting up file sharing which may compromise personally identifiable, confidential information.
- Connecting a device to any port of the AOS network unless first authorized by IT staff. This includes USB ports on a client computer.
- Distribution of computer software having no bearing on the AOS mission.
- Downloading or installing unauthorized software. This prohibition is necessary because such software may contain viruses, worms or Trojan horses which may damage AOS information and systems.
- Soliciting business, selling products or otherwise engaging in personal commercial activities or any for-profit activities.
- Removal or modification of any AOS IT equipment or software without authorization by IT staff.

2005 Software

All software acquired for or on behalf of the AOS or developed by AOS employees is, and shall be deemed, AOS property. All such software must be used in compliance with applicable licenses, notices, contracts and agreements.

2005.1 Unauthorized Software

The addition of any software package to AOS systems or equipment is prohibited unless it has been approved by the Information Technology Director. Unauthorized software packages open AOS systems to possible risk and the AOS to potential legal issues.

This policy applies to, but is not limited to, games, download managers and peer to peer networking applications (bit torrent). This prohibition is necessary to avoid software license copyright violations, network security risks and computer failures due to software incompatibility.

You will be directed to remove unauthorized software from AOS IT resources or the unauthorized software will be removed by AOS IT staff during maintenance or repair of a computer.

2006 Computer Problems and Repairs

AOS IT staff provide support to all AOS staff regarding IT hardware and software.

2006.1 AOS Help Desk

Contact the AOS IT staff when you are experiencing problems with your computer. Sometimes the IT staff can immediately tell you what the problem is because they have seen it before. Other times, they will identify a work-around for you until they can determine the cause.

The following will help when there is a problem:

- Identify the situation and/or any unusual messages you are getting. Even if you think the problem is “no big deal” and you can continue to work, it is important for the IT staff to know what is happening with your computer. It may not be critical now, but it may be the piece of the puzzle needed to resolve a future problem.
- Explain what you were doing when the problem occurred. The sequence of events may be critical. This includes keystrokes (if you can remember them.)
- Identify what programs/applications you were running. The IT staff know the programs/applications they put on your computer, and they know how the programs/applications are supposed to work together.
- Identify any non-AOS applications like freeware or shareware you have added. You will be directed to delete them. (Remember – AOS policies prohibit unauthorized software/programs/applications.)
- Identify the time or frequency of the problem. Sometimes, a pattern can be identified over time that helps identify the cause.
- Identify anything unusual preceding the problem. Sometimes flickering lights or other external events may be the culprit.
- If you have to bring your computer in to the IT staff, bring all of the parts and pieces that make it run (cords, etc.).

2006.2 Laptop Problems

Laptop hardware and software problems should be reported immediately to the IT staff. They will try to resolve any problems by phone if possible. If the laptop needs repair and will not be available for a period of time, the laptop will be replaced by a pool laptop while repair is taking place. Every effort will be made to ensure staff working away from the Capitol complex have a working computer available.

Unauthorized software identified during repair work will be deleted from the equipment.

2006.3 Network Problems

It is the policy of the Office of Auditor of State to communicate any network problems or situations related to the availability of the AOS LAN to affected staff in a timely manner.

When a problem arises, the IT staff notify the Lucas Building Receptionists, who then notify AOS staff in the Capitol, Lucas Building, satellite offices and VPN locations. The receptionists will keep staff apprised of the following:

- The problem and any action to be taken by users (i.e. log-off).
- How long the problem and/or repair will take.
- Approximate time when network will be available again.

AOS staff should contact the receptionists to find out the network status.

When the problem requires a server to be shut down or rebooted, IT staff may terminate all connections to the server after a reasonable length of time following staff notification so as not to delay restoration of network services.

2006.4 Documentation

When network administrators are notified of a problem with an individual's computer or they identify a problem with the network, the situation will be recorded and the resolution will be documented.

2006.5 Maintenance Notifications

The IT staff schedule maintenance work to be performed on evenings and weekends to reduce interruptions to normal work schedules. The AOS network is not available to staff during these times. Whenever possible, AOS staff will be notified prior to these updates being done.

2007 Computer Courtesy

While working at any AOS office site or at an assigned location, please remember to keep the noise level down as a courtesy to others. Computer volume should be turned off or kept at a very low volume that is not disruptive to others.

Employees should not write or run any computer program/process that would unduly consume more network resources than necessary or that would jeopardize system availability to other staff. If you have questions about using a large file or program, contact the IT staff and they will help identify alternatives.

2008 Email

AOS uses email to enhance interoffice communication. Every AOS employee is provided a mailbox that is password protected.

All computer communications should be consistent with conventional standards of ethical and proper conduct, behavior and manners and not be used to create, forward or display any offensive or disruptive photographs, graphics and audio materials.

Do not give your email password to anyone to access your email. Because our system identifies the sender by the email address, there may be unintentional misunderstandings.

Remember, email may not be read immediately. Email should not be used for anything that is time sensitive.

AOS reserves the right to monitor email content to ensure the email system is being used for appropriate purposes

2009 Internet

Internet services are provided by the Office through the AOS Network to support open communication and exchange of information and the opportunity for collaborative government-related work. The Office encourages the use of electronic communications by employees in appropriate circumstances.

The Internet is a critical business resource, but it can expose the Office to a variety of risks surrounding employee productivity, network performance, security and legal liability.

2009.1 Access

The Office can limit or restrict your access to specified sites, but we want to avoid this because it will slow down access for everyone. However, all sites accessed do leave "footprints" on the system and AOS can and will monitor sites visited if the need arises.

Inappropriate use of Internet services provided by the AOS may result in denial of access or other disciplinary action.

2009.2 Client Access

Internet access when in the field is most likely going to be provided by the client. Clients may also choose to deny all access to the Internet by AOS staff.

Any attempts to circumvent the desires of the client in this matter will be deemed unacceptable and appropriate actions will be taken.

2010 Remote Access

2010.1 Virtual Private Network (VPN)

All laptop computers have SonicWALL NetExtender software installed which enable users to create a VPN tunnel and connect to the AOS Local Area Network from any location where they have an Internet connection. Access to the LAN via the SSL VPN is similar to access in any AOS Office. The speed of the connection is dependent upon the speed of the Internet connection available from the site where the laptop is located to the Lucas Building.

2010.2 Field Office Access

AOS field offices at ISU, SUI and DOT are connected to the AOS LAN by a virtual private network (VPN.) Access to the LAN via the VPN is similar to the access on the Capitol Complex.

2010.3 Satellite Offices

Our satellite offices in the State Capitol, Wallace, Hoover, and Grimes Buildings are connected to the AOS network by a virtual LAN (VLAN). Access to the LAN via the VLAN is similar to the access in the Lucas Building.

2011 Passwords

Passwords are required to access the AOS network, individual email boxes, certain databases, and the State Mainframe. Since your password acts as a personal key, it provides access to computer systems and applications. It also gives each user certain permissions and capabilities.

Your password is your personal key to your workstation or network. If someone else uses your password, his or her activities will be recorded as being done by you.

2011.1 Password Policies

All passwords must have a minimum length of eight characters using a combination of letters, digits, and special characters, such as ~!@#\$\$%^& and spaces. If passwords are case sensitive, then the combination should include both uppercase and lowercase letters. Longer passwords are encouraged, but passwords should never be less than eight characters.

All passwords used by all AOS employees for all systems must be changed at least every 60 days.

All passwords must be changed as they expire. (Note: Five days prior to the expiration of your password, the system will email you that your password is about to expire. This is intended to let you know your password will expire soon.)

2011.2 Password Best Practices

To further strengthen the above policies, the following best practices are encouraged for all AOS staff.

- Every login to an AOS related system should have a different, unique password.
- All passwords should be unique. This applies to all AOS systems and any other system if the AOS staff member has any control over the password selection.
- Users are always encouraged to go beyond the minimum established by policy.
- Passwords are not to be written down, if it can be avoided. When it is unavoidable, additional security steps should be taken.
- All users should avoid using cyclical or sequential numbering of a common pattern for passwords.
- Passwords with some kind of commonality should be avoided.
- Passwords used on AOS systems and passwords used on personal systems should not be the same.
- The use of tools and utilities that store or “remember” passwords for users can be allowed on the condition that the access to the tool requires a password or access technique equal to or greater than AOS policy..
- For web sites that require passwords, all AOS password policies apply if the information the web site uses is of a sensitive nature and the web site can handle a password created with these policies.

2011.3 File Passwords

Individual files should not be password protected. This would result in an unusable file when the password is lost. The IT staff have no way of identifying or resetting the password used. If you have working papers or other files where restricted access is needed, contact the IT staff. They can restrict access without using additional passwords and risking the loss of access to the files.

2012 Printers

To ensure printers are in good working order for the next person, you should report any problems. Attach a note to the printer with a clear, concise description of any problems you had with the printer. Please sign and date the note (just in case you are not as “clear and concise” as you thought and the IT staff needs some clarification of the problems.)

2013 Virus Diligence

2013.1 Anti-virus Software

All files used, accessed or copied to an AOS computer system should be scanned by anti-virus software. AOS has software that automatically scans files when they are received electronically from external sources. However, anti-virus software can’t catch all new forms of malicious software.

When the IT staff become aware of a new virus that may not be detected through our current software, they will contact AOS staff immediately.

2013.2 Precautions

If you receive:

- an unexpected attachment via email from someone you know and do not know why you received it, contact them to see if it was sent legitimately before opening it. If they did not knowingly send it, delete and empty the message immediately.
- an unexpected, unusual file attachment via email from someone you do not know, delete it immediately.
- a valid email attachment that may contain macros (i.e. Word, Excel) and you are asked whether to allow macros or not upon opening it, indicate no. Many viruses are contained in macros and few files actually use macros.
- any attachment with an .exe, .vbs, .com, or .bat extension, delete it immediately unless you specifically requested the file and know the sender.
- any email that meets any description of malicious email about which you were notified previously, delete it immediately.

In all cases, if you delete email, ensure it is also deleted from any trash folder as well.

It is important you read all email from the IT staff regarding security issues, virus warnings and software updates.

2014 Backup of Data

The IT staff backup the AOS systems on a nightly basis, Monday through Friday.

All important data should be saved to the network so they can be backed up. AOS staff are responsible for getting all important data onto the AOS network.

2015 AOS IT Strategic Plan

The IT staff annually prepare a strategic plan setting forth AOS IT goals and objectives. Management reviews and approves or modifies this plan. A copy is available to staff on the H drive.

2016 IT Staff Authority

The IT staff are authorized to monitor system usage and question the use of certain programs and/or files.

3000 SUMMARY OF WORKPLACE POLICIES

3001 Confidentiality Policy

Chapters 11.41 and 11.42 of the Code of Iowa explain the confidentiality requirements for access and disclosure of information that apply to Office employees.

Please refer to APPENDIX A at the end of this Handbook for the *Access and Disclosure of Information – Confidentiality Procedure*.

The Acknowledgement of Responsibilities Concerning Confidential Information must be signed after the Confidentiality Policy is received and reviewed.

3002 Workers Compensation Policy

All State employees are covered by workers' compensation when they are injured or become ill as a result of their job duties. An employee must report all accidents and injuries within 24 hours. When injured, seek medical attention from the nearest Workers' Compensation Medical Network provider, when practical or unless it is a life-threatening situation. Follow-up visits should be to a Network Provider. The AOS HR/Payroll Coordinator will help the employee determine the closest provider once a related injury or illness is reported.

Please refer to APPENDIX B at the end of this Handbook for the *Required Workers Compensation Procedures*.

The Acknowledgement of Receipt of the Workers Compensation Network Procedures must be signed after the Workers Compensation Policy is received and reviewed.

3003 Equal Employment Opportunity, Affirmative Action and Anti-Discrimination Policy

The State is committed to providing equal employment opportunity within state government to all persons. The policy sets forth expectations to ensure that individuals are not denied equal access to state employment opportunities because of their race, creed, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, or gender identity, consistent with applicable state and federal policies and regulations. The policy further provides procedures to report complaints.

Please refer to APPENDIX A in the State of Iowa Employee Handbook for the *State of Iowa's Equal Employment Opportunity, Affirmative Action and Anti-Discrimination Policy*. The Policy can be found at:

https://das.iowa.gov/sites/default/files/hr/documents/SOI_EE_Handbook.pdf

3004 Drug-Free Workplace and Substance Abuse Policy

The State is committed to maintaining a safe work environment that is free from the use, abuse, and effects of alcohol, drugs and controlled substances. The policies discuss drug and alcohol dependencies as treatable illnesses. Employees in need of help are strongly encouraged to take advantage of the State's Employee Assistance Program.

Please refer to APPENDIX B in the State of Iowa Employee Handbook for the State of Iowa's Drug-Free Workplace Policy. The Policy can be found at:

https://das.iowa.gov/sites/default/files/hr/documents/SOI_EE_Handbook.pdf

Please refer to APPENDIX C in the State of Iowa Employee Handbook for the State of Iowa's Substance Abuse Policy. The Policy can be found at:

https://das.iowa.gov/sites/default/files/hr/documents/SOI_EE_Handbook.pdf

3005 Smoking and Tobacco Use Policy

The policy establishes a smoke-free environment for employees and the public as they transact business with or receive service from the State and facilitates compliance with Iowa's Smokefree Air Act and DAS Administrative Rules, which govern the use of tobacco-related products. The policy identifies prohibited and authorized activities related to smoking and the use of tobacco-related products. The State recognizes that employees may need assistance in stopping the use of tobacco products. Employees in need of help are strongly encouraged to take advantage of the State's Employee Assistance Program.

Please refer to APPENDIX D in the State of Iowa Employee Handbook for the State of Iowa Smoking and Tobacco Use Policy. The Policy can be found at:

https://das.iowa.gov/sites/default/files/hr/documents/SOI_EE_Handbook.pdf

3006 Social Media Policy

The policy sets forth expectations for both personal and professional use of social networking, social media, or web-based information sharing/open communication sites. The policy further identifies prohibited actions related to the use of such sites.

Please refer to APPENDIX E in the State of Iowa Employee Handbook for the State of Iowa's Social Media Policy.

https://das.iowa.gov/sites/default/files/hr/documents/SOI_EE_Handbook.pdf

3007 Violence-Free Workplace Policy

The State is committed to a violence-free workplace, and preventing violence in the workplace. The policy identifies prohibited activities, and sets forth expectations and procedures for reporting violations.

Please refer to APPENDIX F in the State of Iowa Employee Handbook for the State of Iowa's Violence-Free Workplace Policy. The Policy can be found at:

https://das.iowa.gov/sites/default/files/hr/documents/SOI_EE_Handbook.pdf

**OFFICE OF AUDITOR OF STATE
STATE OF IOWA**

APPENDICES

APPENDIX A

2013 Iowa Code - Access and Disclosure of Information - Confidentiality

2013 IOWA CODE/TITLE I STATE SOVEREIGNTY AND MANAGEMENT/SUBTITLE 4 EXECUTIVE BRANCH/CHAPTER 11 AUDITOR OF STATE

11.41 Access to information — confidentiality.

1. The auditor of state, when conducting any audit or review required or permitted by [this chapter](#), shall at all times have access to all information, records, instrumentalities, and properties used in the performance of the audited or reviewed entities' statutory duties or contractual responsibilities. All audited or reviewed entities shall cooperate with the auditor of state in the performance of the audit or review and make available the information, records, instrumentalities, and properties upon the request of the auditor of state.

2. Auditors shall have the right while conducting audits or examinations to have full access to all papers, books, records, and documents of any officers or employees and shall have the right, in the presence of the custodian or the custodian's designee, to have full access to the cash drawers and cash in the official custody of the officer or employee and, during business hours, to examine the public accounts of the department or governmental subdivision in any depository which has public funds in its custody pursuant to the law.

3. If the information, records, instrumentalities, and properties sought by the auditor of state are required by law to be kept confidential, the auditor of state shall have access to the information, records, instrumentalities, and properties, but shall maintain the confidentiality of all such information and is subject to the same penalties as the lawful custodian of the information for dissemination of the information. However, the auditor of state shall not have access to the income tax returns of individuals.

2006 Acts, ch [1153, §11](#); 2011 Acts, ch [75, §27](#)

Referred to in [§123.58](#)

11.42 Disclosures prohibited.

1. Notwithstanding [chapter 22](#), information received during the course of any audit or examination, including allegations of misconduct or noncompliance, and all audit or examination work papers shall be maintained as confidential.

2. Information maintained as confidential as provided by [this section](#) may be disclosed for any of the following reasons:

a. As necessary to complete the audit or examination.

b. To the extent the auditor is required by law to report the same or to testify in court.

3. Upon completion of an audit or examination, a report shall be prepared as required by [section 11.28](#) and all information included in the report shall be public information.

4. Any violation of [this section](#) shall be grounds for termination of employment with the auditor of state.

2011 Acts, ch [75, §28](#)

APPENDIX A

**ACKNOWLEDGMENT OF RESPONSIBILITIES
CONCERNING ACCESS TO
CONFIDENTIAL INFORMATION**

I, _____, an employee of the **Office of Auditor of State**, hereby certify I have read section 11.41 of the Code of Iowa. Section 11.41 provides the Office of Auditor of State access to confidential information during the performance of audits or reviews required or permitted by Chapter 11 of the Code of Iowa and requires the Office of Auditor of State and its employees to maintain the confidentiality of that information in the same manner as the lawful custodian of the information. In addition, section 11.41 provides the Office of Auditor of State and its employees are subject to the same penalties as apply to the lawful custodian for improper dissemination of confidential information.

Also, at times I may have access to protected health information (PHI), as defined by the Health Insurance Portability and Accountability Act (HIPAA) and the federal privacy protections adopted by the U.S. Department of Health and Human Services. I acknowledge Chapter 11.41 of the Code of Iowa includes the requirement that I maintain confidentiality of PHI.

In addition, I have read section 11.42 of the Code of Iowa, which prescribes the circumstances when the results of any investigation may be disclosed and specifies violations of those disclosure provisions are grounds for removal (termination of employment).

I certify I am aware of my responsibilities concerning confidential information as contained in sections 11.41 and 11.42 of the Code of Iowa and the penalties which may apply for violation of those responsibilities. I agree to comply with those responsibilities or accept the penalties which may apply for violation of those responsibilities.

Employee Signature

Date

Rev 9/2020

APPENDIX B

REQUIRED WORKER'S COMPENSATION PROCEDURES

SedgwickCMS handles State of Iowa Worker's Compensation claims. Unless an injury is life threatening, employees must seek treatment at one of the Network providers listed below, if living or working within a reasonable travel distance, to qualify for Workers' Compensation. Employees should identify themselves as State of Iowa employees and that this is a work-related injury. HAVE SOMEONE CALL OUR OFFICE. DO NOT JUST LEAVE A MESSAGE UNLESS IT IS AFTER NORMAL WORKING HOURS.

- (1) If injuries are life-threatening, call 911 emergency number. Seek emergency services where available. If you will be leaving your vehicle and going to an emergency facility arrange, if possible, for someone to take possession of your work equipment; i.e., law enforcement officers. Have someone call your Manager or Susan Fager at 515-281-5619 or the Office of Auditor of State's general number at 515-281-5834 as soon as possible. Sedgwick's after hour's number is 866-222-8768.
- (2) Transportation by ambulance if needed, to nearest hospital for any serious injury.
- (3) Employee working in an area where there is no Network provider within a reasonable travel distance may go to nearest facility for their first visit.
- (4) Follow-up medical care should be at the nearest *network* facility, if possible. If not an emergency, first visits should be to a network facility if one is within reasonable distance. (Check with our office for alternate locations or Sedgwick at 866-342-3920.)
- (5) If work-related injuries occur outside of the normal Network provider's hours of business and immediate medical attention is needed, appropriate emergency room services may be utilized.

WORKERS COMPENSATION NETWORK PROVIDERS

The following link to the DAS medical providers list must be utilized in all non-emergency cases where it is reasonable for the initial assessment and treatment of injuries and illnesses suspected to be work-related. This list is subject to change. Contact Sedgwick CMS for updated information or to discuss special situations. Sedgwick CMS Phone: 515.327.4888, Toll Free: 866.342.3920

Note: In all cases, if a life-threatening situation arises and there is doubt as to whether a condition is work-related or a personal medical crisis, access the emergency 911 system to get immediate help. Liability issues will be resolved at a later time.

<https://das.iowa.gov/human-resources/employee-and-retiree-benefits/employees/additional-benefits/workers%E2%80%99-compensation-0>

APPENDIX B

**Acknowledgment of Receipt
Of Workers Compensation
Procedures**

I, an employee of the **Office of Auditor of State**, hereby acknowledge I have received and have been instructed to review the Iowa Department of Administrative Services, Human Resources Enterprise's procedures for reporting of and treatment for injuries covered under the State of Iowa's Workers Compensation program. The Workers Compensation treatment program for injuries is handled through network providers with few exceptions allowed. I understand if I am injured and fail to follow these procedures, there could be a possibility of reduction in reimbursement for or rejection of my claim. Lack of knowledge of these policies will not be considered an excuse for non-compliance.

Employee's Name (Print)

Employee's Signature

Date

This form will be kept in your confidential personnel file.

APPENDIX C

LUCAS BUILDING EMERGENCY INFORMATION 2ND FLOOR NORTH SIDE – AUDITOR OF STATE OFFICE

Des Moines Police/Fire/Rescue/Hazmat	911
Iowa State Patrol, District 16	281-3879
Homeland Security & Emergency Management	725-3231

FIRE

1. Activate Alarm. Manual fire alarm boxes and fire hoses are located near all three stairwell exits.
2. Notify Fire Department **and** Iowa State Patrol of the exact location of the fire.
3. When fire alarm buzzer is activated, notify anyone who may not hear the alarm and leave building immediately. Isolate the fire by closing doors as you leave. Treat every fire alarm as if it is a real fire.
4. Non-ambulatory personnel should have predesignated individuals to assist evacuation.
5. Evacuate building using closest escape routes. If possible, avoid the loading dock as an escape route. **DO NOT** use elevators.
6. **ALL AOS STAFF** are to proceed to the War Memorial across 13th Street east of the Lucas building. Notify supervisor and/or floor coordinator of your presence and stay with your work group. Anyone known to be missing from the work group should be reported to the supervisor or floor coordinator.
7. **DO NOT** return to the building unless approved by Building Emergency Coordinator or Iowa State Patrol.

TORNADO

1. Tornado warnings will be issued through intercom system and by the floor coordinators.
2. Advise anyone who may not hear warning and go to designated shelter areas immediately using exit stairways. **DO NOT USE ELEVATORS.** Non-ambulatory/reduced ambulatory personnel may use elevators or predesignated individuals may assist evacuation via stairways.
3. Use any stairwell, go to the basement level (not the ground floor) and meet by the central stairway east of the elevators. Notify supervisor and/or floor coordinator of your presence and stay with your work group. Anyone known to be missing from the work group should be reported to the supervisor or floor coordinator.
4. Maintain an awareness for electrical fires or escaping gas.
5. **DO NOT** return to work areas unless approved by Building Emergency Coordinator or floor coordinator.

BOMB THREAT AND CHEMICAL RELEASE

1. Obtain as much detailed information as possible and report it immediately to floor supervisor, floor coordinator, Iowa State Patrol and Fire Marshall.
2. Employees will be given instructions by building intercom and by floor coordinators.
3. If you identify an unfamiliar object, **DO NOT** touch it; notify the supervisor or floor coordinator immediately
4. Chemical spills within the building should be reported to your supervisor or the floor coordinator. If the release is a significant threat to the building notify Hazmat, Iowa State Patrol, and the Building Emergency Coordinator.
5. Do not evacuate the building unless instructed by the Building Emergency Coordinator and the floor coordinators. If an evacuation is ordered, follow the **FIRE** evacuation instructions.

MEDICAL

1. If a life threatening medical emergency occurs, call 911, **and** the Iowa State Patrol. Give the number of an open phone line. Follow the directions of the 911 operator. Have someone stay with the victim. Have another person go to the first floor street entrance to direct the emergency medical personnel.
2. Employees with diagnosed chronic health problems should advise their supervisor of special treatment requirements should they become ill or incoherent.
3. If an employee becomes ill at the work site and emergency hospital care is needed, the employee will be transported by ambulance to Iowa Methodist Medical Center in most medical emergencies unless a hospital preference is indicated.
4. **A first aid kit is located in the lateral drawer on the west side of the Lucas reception desk .**

APPENDIX D

**ACKNOWLEDGMENT OF RECEIPT
OF THE OFFICE OF AUDITOR OF STATE
EMPLOYEE HANDBOOK**

I, _____, acknowledge receipt of the Office of Auditor of State's Employee Handbook. I am aware I am expected to read and be familiar with the information contained in this handbook. I understand all Auditor of State Employees are subject to and shall comply with the policies in the Employee handbook.

Employee Signature

Date

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>KIRKWOOD INSTITUTE, INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>IOWA AUDITOR OF STATE ROB SAND, JOHN MCCORMALLY, and OFFICE OF THE AUDITOR OF STATE,</p> <p>Defendants.</p>	<p>Case No. EQCE087052</p> <p>McCORMALLY AFFIDAVIT</p>
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I, John McCormally, upon being duly sworn, state as follows:

1. I am currently Chief of Staff and General Counsel in the Office of the Auditor of the State of Iowa, a position I have held since January 2, 2019.
2. I was admitted to practice law in Iowa bar 2008 and formerly practiced law with the Iowa Attorney General's Office, where my duties included advising state agencies on how to handle public records request and investigating complaints regarding sunshine law issues.
3. I am familiar with Iowa Code Chapter 22, the Public Records Act.
4. I am familiar with Iowa Code Chapter 11, which sets forth the powers and duties of the State Auditor.
5. Iowa Code § 11.42 creates strict confidentiality requirements for the Auditor's Office distinct from other arms of state government, because our Office takes in confidential information, tips from whistleblowers, and the like. Because the provisions are strict

(including termination for improper disclosure) and because of my legal background on these issues, I am involved with every public records request made to the Auditor's Office.

6. On June 16, 2021, Public Information Officer Sonya Heitshusen informed me of a public records request made by the Kirkwood Institute.
7. The request was for all records since January 2, 2019, Auditor Sand's first day in office, until the date the request was processed in the following categories:
 - All emails sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, and the email address "desmoinesdem@bleedingheartland.com".
 - All emails sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, that contain the phrase "desmoinesdem@bleedingheartland.com".
 - All emails and text messages sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, that contain the word "Belin".
 - All emails sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, and the email address "rjfoley@ap.org".
 - All emails sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, that contain the phrase "rjfoley@ap.org".
 - All emails and text messages sent to, sent from, or otherwise exchanged between any employee of the Auditor of State's office, including the Auditor, that contain the word "Foley".
8. That same day, with my approval, Heitshusen forwarded the request to IT Specialist Jacob Lloyd to begin the record retrieval process.
9. Jacob provided me with access to four ".pst" files, which contained the emails returned by the email searches he performed on the terms provided in the Kirkwood request.

(There were four email files, rather than six, because the request for emails exchanged with the email addresses "desmoinesdem@bleedingheartland.com" and "rjfoley@ap.org"

were contained in the searches for the identical phrases

"desmoinesdem@bleedingheartland.com" and "rjfoley@ap.org," respectively).

10. I opened each .pst file individually in Microsoft Outlook and went through each email individually.

11. My review of the records was guided by chapter 22 but primarily Iowa Code 11.42, which sets forth limitations on disclosures by the Auditor's office.

12. Under Iowa Code section 11.42(4), Auditor's office staff are subject to termination for improperly disclosing documents subject to confidentiality. As a result, I am consistently mindful of the specific requirements of Iowa Code section 11.42 and the circumstances where they will override the general requirements of chapter 22.

13. Iowa Code section 11.42(1) reads:

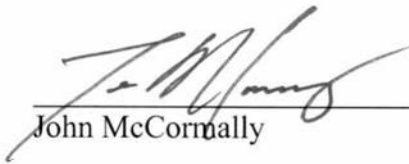
Notwithstanding chapter 22, information received during the course of any audit or examination, including allegations of misconduct or noncompliance, and all audit or examination work papers shall be maintained as confidential.

14. A plain language reading of that section is that audit workpapers (the materials prepared by the auditors for use in completing the audit) are distinct from "information received in the course of any audit or examination." The former might generally be described as records created or maintained by the Auditor's office for the purpose of an audit, while the latter includes at least records received from outside the office related to an audit, and especially those regarding allegations of misconduct or noncompliance. In many cases but not all, "information received" is incorporated into audit "workpapers" by the auditor. Regardless, by law, both categories must be maintained as confidential.

15. In addition, it is significant that 11.42 begins with the phrase, “Notwithstanding Chapter 22.” The legal interpretation of “notwithstanding” is best described as “in spite of.” BLACKS LAW DICTIONARY. Consequently, 11.42 is best interpreted as “In spite Chapter 22, records that fall under Iowa Code 11.42 MUST be maintained as confidential, except as necessary to complete an audit or as otherwise ordered by a court.” Iowa Code 11.42(2).
16. With this framework, I apply the following analysis when evaluating a record for disclosure:
 - a. Is the information “of or belonging to the state,” making it a “public record” within the meaning of Iowa Code chapter 22?
 - b. If so, is the record subject to the confidentiality provisions of section 11.42?
 - c. If section 11.42 does not apply to a record, is it otherwise subject to one of the exceptions to disclosure in Iowa Code section 22.7?
17. I reviewed over seven hundred pages of emails to fulfill the Kirkwood request. I identified a handful of threads as either workpapers, information received, or as otherwise confidential under chapter 22. Some of these had nothing to do with either Laura Belin or Ryan Foley but fell under the request due to the commonality of the search terms. Ten threads were ultimately withheld from production.
18. One email that was not included in the document review I performed is a June 4, 2021, email that I sent to Laura Belin, the writer of the Bleeding Heartland blog, from my personal email account. (Exhibit #JBM7).

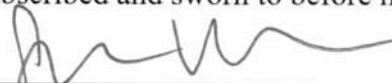
19. I have reviewed all email that I sent to Laura Belin from my personal email account since January 1, 2019, and there are no other emails are even arguably related to the Office of the Auditor or state government.
20. On July 6, I provided all records responsive to the Kirkwood request that were subject to disclosure for the period since May 30, 2019 without charge, and summarized the response in a letter. (Ex. # JBM1).
21. In that letter, I made Ostergren aware of a complicating factor in facilitating his request: the fact that the Auditor's Office had switched email service providers approximately five months into Auditor Sand's term. Because of this switch, emails from those months existed only in an archive that Office had ceased maintaining. (*Id.*).
22. I informed Ostergren that the emails from January through May 2019 were archived, and that reviewing them would take additional time and staff resources to access. I informed him that the Auditor's Office would charge him for the staff time needed to fulfill that part of the request due to the additional effort needed. I also informed him that the office would not impose any charges for the records provided from after May 2019. (*Id.*).
23. On July 22, Ostergren emailed me asking to justify the basis for imposing the costs. (Ex. #JBM2).
24. On July 26, I replied with an email summarizing Iowa Law regarding the imposition of costs relevant to public records requests. (Ex. #JBM3)
25. On August 3, Ostergren emailed me a brief response, "please proceed with the additional review." (Ex. #JBM4). I acknowledged this response and began the review.

26. On August 16, I emailed Ostergren that the review was complete, and that the cost was less than expected. I informed him that we would provide him the remaining records upon payment of \$231. (Ex. #JBM5).
27. On August 23 we received a check from the Kirkwood Institute, and Ostergren was provided access to the remaining records. (Ex. #JBM6).
28. After the Kirkwood Institute filed its Petition in this case, I provided the full email thread for the June 4, 2021, personal email to the Kirkwood Institute in discovery. The full personal email thread includes two short emails that were sent later in the day on June 4. (Exhibit #JBM7).



John McCormally

Subscribed and sworn to before me on this 29th day of April, 2021.



NOTARY PUBLIC, STATE OF IOWA

cc:





OFFICE OF AUDITOR OF STATE
STATE OF IOWA

State Capitol Building
Des Moines, Iowa 50319-0004

Telephone (515) 281-5834 Facsimile (515) 242-6134

Rob Sand
Auditor of State

July 6, 2021

Alan R. Ostergren
President and Chief Counsel
Kirkwood Institute
VIA EMAIL

Re: Public Records Request

Mr. Ostergren

Attached please find public records responsive to your June 16, 2021 requests for disclosure pursuant to Iowa Code Chapter 22. These records compromise all the records subject to disclosure for the period of May 30, 2019 through the present day. There are three considerations I wish to note for you.

First, the searches you requested returned a number of records that are not subject to disclosure due to Iowa Code 11.42. Workpapers of the Auditor's office, including all information received in the course of an audit, are required to be maintained as confidential. A number of records that turned up in the searches fall under this statute, due in large part to the commonality of certain terms you asked us to search. As a result, we have removed all communications which constitute workpapers or information received in the course of an audit.

Secondly, for similar reasons, we have removed all records that are subject to confidentiality under Iowa Code 22.7(18), which relates to the potential chilling effect on non-required communications to the government by persons outside government.

Finally, this response does not include any records from the period of January 2, 2019 through May 29, 2019. The Auditor of State's record retention policy is to maintain email correspondence for two years, which is 18 months longer than State records guidelines, but less than breadth of your request. Additionally, our office transitioned to a new email server in May 2019, and emails from prior to the transition are archived in a different system. Our

contract for maintaining this archive expired on June 30, 2021, in accordance with the two-year retention policy.

However, in response to your request, we have exported all emails responsive to your request from the old system into a .pdf. Because we do still have access to these email under the old system, we would be able to provide them subject to review. This .pdf will require additional time to review, and will be subject to the same exemptions as the rest of the response.

Through this letter I am informing you that pursuant to Iowa Code 22.3, the Auditor's office will be charging for the staff time required to review the emails older than two years. We anticipate the cost of this additional review to be approximately \$585. We have not charged, and will not charge, for the approximately 40 hours of staff time that has been necessary to provide this response. Please let me know if you wish to pursue this review, and we can make arrangements for your payment.

Please contact me with any questions.

Sincerely,



John McCormally
Chief of Staff/General Counsel
Auditor of State of Iowa
Iowa State Capitol
Room 111
(515) 242-5949
John.McCormally@aos.iowa.gov

From: [Alan Ostergren](#)
To: [John McCormally](#)
Subject: Records request
Date: Thursday, July 22, 2021 10:15:52 AM

Mr. McCormally:

This will be a follow up to our previous communication about the records request submitted by Kirkwood Institute to your office. You indicated to me that there would be a charge for time involved in examining archived emails. Your letter did not set forth the basis for the estimated charge. I am therefore unable to determine whether this charge would be reasonable and permitted under Iowa law. Please explain the basis for this estimate.

Thank you for your attention to this matter.

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Alan R. Ostergren
President and Chief Counsel
Kirkwood Institute

From: [John McCormally](#)
To: [Alan Ostergren](#)
Bcc: [Rob Sand](#); [Sonya Heitshusen](#)
Subject: RE: Records request
Date: Monday, July 26, 2021 12:59:00 PM
Attachments: [John McCormally.vcf](#)
[image003.jpg](#)

Mr. Ostergren-

Thank you for the opportunity to provide this clarification.

Chapter 24 of the Auditor's administrative rules state that the Auditor has adopted the Uniform Rules of Agency Procedure, available here (<https://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf>.) IAC 81-23.3(7) states agencies will provide one hour of free to fulfill public records requests. As I previously indicated, AOS has done approximately 40 hours of work to fulfill your request to this point, which we will not be charging.

The \$585 projected expense for the remainder of the request is based on an estimated 12 hours needed to retrieve, review, and as necessary, redact records from our former email system. The billing costs reflect charging for the IT staff time, as well as my time (my time is charged at \$50/hr, which is just under the hourly rate my salary computes to according to the state payroll system. The IT folks are billed at a lower rate, again based on the state payroll system.) As I indicated, we have archived all the emails from that system (which went out of service on 5/31/19, and which we ceased maintaining as of 6/30/21). Retrieving the records relevant to your request and reviewing them for confidentiality is expected to take approximately 12 hours of staff time between myself and the IT folks.

Iowa Code 22.3(1) authorizes the records custodian to make fulfillment of a request contingent upon payment of expenses. Iowa Code 22.3(2) authorizes the custodian to charge a reasonable fee for the examination and copying of records. Actual costs may include only those expenses directly attributable to supervising the examination and making and providing copies, and can't include charges for ordinary expenses such as employment benefits, facilities, etc. Given the strict confidentiality duties imposed by Chapter 11, AOS deems it reasonable to have an attorney review each email prior to release.

The Iowa Supreme Court has confirmed that section 22.3 authorizes a custodian to charge a retrieval fee for the cost of retrieving records. Rathmann v. Bd. of Dirs. of Davenport Cmty. Sch. Dist., 580 N.W.2d 773, 778 (Iowa 1998). And in Hackman v. Kolbet, 2017 WL 3065168 (Iowa Ct. App. Jul. 19, 2017), the Court of Appeals held that the statute authorizes the payment of reasonable fees, including time for an attorney to review and redact the records. In Hackman, the court concluded that the custodian's policy allowing a \$35 per hour fee for research relating to complying with an open records request was reasonable. Based on this case law, the AG's office has advised that costs of up to \$50/hour may be considered reasonable, as long as the hourly rate does not exceed the actual costs of the review (e.g., we could not charge \$50/hour if the employee doing the review

is paid less than that—hence the different rate for myself and IT staff).

Please let me know if I can provide further clarification.

All the best,
JBM



From: Alan Ostergren <alan.ostergren@kirkwoodinstitute.org>
Sent: Thursday, July 22, 2021 10:16 AM
To: John McCormally <John.McCormally@AOS.IOWA.GOV>
Subject: Records request

Mr. McCormally:

This will be a follow up to our previous communication about the records request submitted by Kirkwood Institute to your office. You indicated to me that there would be a charge for time involved in examining archived emails. Your letter did not set forth the basis for the estimated charge. I am therefore unable to determine whether this charge would be reasonable and permitted under Iowa law. Please explain the basis for this estimate.

Thank you for your attention to this matter.

--

Alan R. Ostergren
President and Chief Counsel
Kirkwood Institute

From: [Alan Ostergren](#)
To: [John McCormally](#)
Subject: Re: Records request
Date: Tuesday, August 3, 2021 8:19:27 AM
Attachments: [image003.jpg](#)

Please proceed with the additional email review. Thank you.

On Mon, Jul 26, 2021 at 12:59 PM John McCormally <John.McCormally@aos.iowa.gov> wrote:

Mr. Ostergren-

Thank you for the opportunity to provide this clarification.

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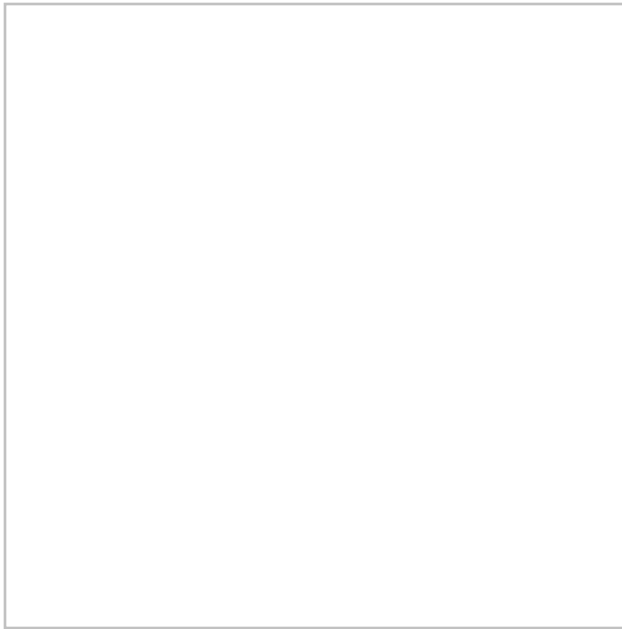
imposed by Chapter 11, AOS deems it reasonable to have an attorney review each email prior to release.

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Please let me know if I can provide further clarification.

All the best,

JBM



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Thank you for your attention to this matter.

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Alan R. Ostergren

President and Chief Counsel

Kirkwood Institute

We have updated our Email Address. Please use the domain [@aos.iowa.gov](mailto:aos.iowa.gov) for all AOS email addresses. Email to the old domain [@auditor.state.ia.us](mailto:auditor.state.ia.us) will still route for now.

This email message and its attachments may contain confidential information that is exempt from disclosure under Iowa Code chapters 22, 139A, and other applicable law. Confidential information is for the sole use of the intended recipient. If you believe that you have received this transmission in error, please reply to the sender, and then delete all copies of this message and any attachments. If you are not the intended recipient, you are hereby notified that any review, use, retention, dissemination, distribution, or copying of this message may be prohibited by law.

Auditor.Iowa.Gov

From: [John McCormally](#)
To: "Alan Ostergren"
Cc: [Drew Stensland](#)
Bcc: [Joshua Ostrander](#)
Subject: RE: Records request
Date: Monday, August 16, 2021 1:40:00 PM
Attachments: [John McCormally.vcf](#)
[image003.jpg](#)
[image005.jpg](#)
[image006.jpg](#)

Mr. Ostergren:

This email is to advise you that we have completed our review of the records you requested pursuant to Iowa Code Chapter 22. We are prepared to provide those to you upon payment of the costs associated with requests as described below.

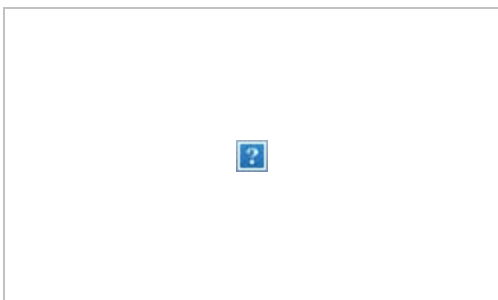
As you will recall from our previous correspondence, the emails reviewed pursuant to this request were contained in the archive of our former email system. This necessitated additional staff time to fulfill your request. However, the time to complete the review was less than anticipated. As a result the amount due is \$231.30, as itemized here:

Description	Rate	Time (hours)	Total
IT Processing	\$45.87	1.5	\$68.8
Attorney Review	\$50	3.25	\$162.5
Total			\$231.3

These charges do not reflect any of the time necessary to fulfill your request that we provided on July 6. We have not charged, and will not charge, for the approximately 40 hours of staff time necessary to provide the previous response.

FYI, I am leaving on vacation tomorrow and will return on 8/23. As a result, I have included Drew Stensland on this email. If you would like the records this week, please coordinate with Drew a time to drop off payment. Alternatively, you can send the check via USPS to our office in the Capitol. In either event, we will provided an email link for the records requested immediately upon receipt of your payment.

Please let me know if you have any questions.



From: Alan Ostergren <alan.ostergren@kirkwoodinstitute.org>
Sent: Thursday, August 5, 2021 9:15 AM
To: John McCormally <John.McCormally@AOS.IOWA.GOV>
Subject: Re: Records request

Understood, thank you.

On Wed, Aug 4, 2021 at 5:12 PM John McCormally <John.McCormally@aos.iowa.gov> wrote:

Alan-

We will get to work on the rest of the request. Our key IT person is out this week, so it will be toward the end of next week before we get the material to you.

Thanks,



From: Alan Ostergren <alan.ostergren@kirkwoodinstitute.org>
Sent: Tuesday, August 3, 2021 8:19 AM
To: John McCormally <John.McCormally@AOS.IOWA.GOV>
Subject: Re: Records request

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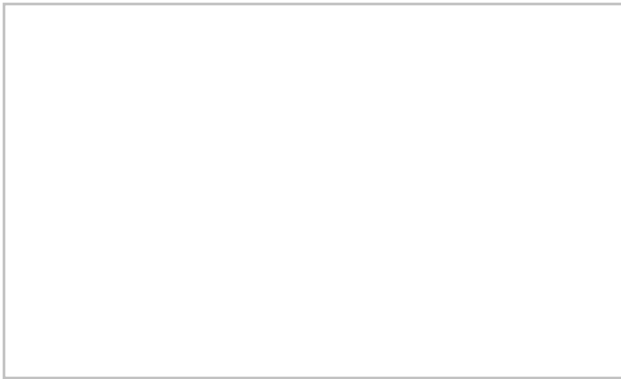
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All the best,
JBM



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To: John McCormally <John.McCormally@AOS.IOWA.GOV>
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Thank you for your attention to this matter.

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Alan R. Ostergren
President and Chief Counsel
Kirkwood Institute

[Redacted]

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[Redacted]

[Redacted]

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Auditor.Iowa.Gov

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Auditor.Iowa.Gov



OFFICE OF AUDITOR OF STATE
STATE OF IOWA

State Capitol Building
Des Moines, Iowa 50319-0004

Telephone (515) 281-5834 Facsimile (515) 242-6134

Rob Sand
Auditor of State

August 23, 2021

Alan R. Ostergren
President and Chief Counsel
Kirkwood Institute
VIA EMAIL

Re: Public Records Request / payment

Mr. Ostergren

Attached please find public records responsive to your June 16, 2021 requests for disclosure pursuant to Iowa Code Chapter 22. These records comprise all the records subject to disclosure under your request for the period of January 2, 2019 through May 30, 2019. Records relevant to your request from May 30, 2019 through the present were previously provided. There are three considerations I wish to note for you.

First, the searches you requested returned a number of records that are not subject to disclosure due to Iowa Code 11.42. Workpapers of the Auditor's office, including all information received in the course of an audit, are required to be maintained as confidential. A number of records that turned up in the searches fall under this statute, due in large part to the commonality of certain terms you asked us to search. As a result, we have removed all communications which constitute workpapers or information received in the course of an audit.

Secondly, for similar reasons, we have removed all records that are subject to confidentiality under Iowa Code 22.7(18), which relates to the potential chilling effect on non-required communications to the government by persons outside government.

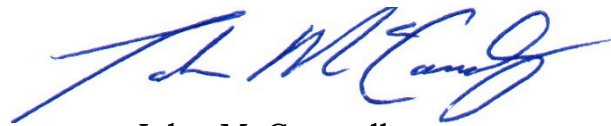
Finally, we have received your check for \$231.30. We have charged this fee in accordance with Iowa Code 22.3 in order to cover the cost of retrieving these records. As I have previously noted, the Auditor of State's record retention policy is to maintain email correspondence for two years, which is 18 months longer than State records guidelines, but less than breadth of your original request. Additionally, our office transitioned to a new email server in May 2019, and emails from prior to the transition were achieved in a different

system. Our contract for maintaining this archive expired on June 30, 2021, in accordance with the two-year retention policy. While we were able to access this archive in order to fulfill this request, you will note the attached production contains a number of pages of “metadata” which is a byproduct of the archival system. We did not delete the metadata pages in an effort to reduce costs and preserve maximum transparency.

We have not charged for the approximately 40 hours of staff time that has been necessary to provide the previous response.

Please contact me with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. McCormally".

John McCormally
Chief of Staff/General Counsel
Auditor of State of Iowa
Iowa State Capitol
Room 111
(515) 242-5949
John.McCormally@aos.iowa.gov



John McCormally <jmccormally@gmail.com>

follow up

3 messages

John McCormally <jmccormally@gmail.com>
To: Laura Belin <desmoinesdem@bleedingheartland.com>

Fri, Jun 4, 2021 at 9:34 AM

Laura-

In your article last night, you wrote:

"But Ostergren noted that "Section 29C.6(10) says she can spend state resources to deal with the emergency," which is what happened here."

Its not what happened here. The full text 29C.6(10) says:

10. Utilize all available resources of the state government as reasonably necessary to cope with the disaster emergency.

That doesn't mean the Governor can do whatever she wants. 29C must be narrowly construed. The statute does not give her absolute power. She can redirect money, she can suspend laws, but she still has to follow certain procedures when she does so. She has to say what she is doing and why she is doing it in a disaster proclamation. She didn't do that.

Reading 29C.6(10) the way you suggest would nullify the rest of the 29C-- if she can do whatever she chooses with any state "resource" when she declares an emergency, the rest of the statute is superfluous. It might as well say "When she declares an emergency, the Governor is the only law." That would amount to unconstitutional delegation of legislative power to the executive. Even in an emergency, she is still subject to the law.

You may think a paid ad featuring her face was a reasonable thing for her to spend money on, or that this is too technical. Those are reasonable positions. However, there are rules for spending taxpayer money. And she didn't follow them. Making sure Is are dotted and Ts are crossed when it comes to the spending of taxpayer money is the entire job of the state Auditor.

Happy to discuss further if you'd like.

--

John McCormally
515-491-5420

Laura Belin <laurarbelin@bleedingheartland.com>
To: John McCormally <jmccormally@gmail.com>

Fri, Jun 4, 2021 at 11:08 AM

Thanks, John. Is this on the record? Because if so I would like to add it to my post.

Did anyone check to see if IECDB told the governor's office this was ok? My understanding is that if IECDB says you can do something, that creates a presumption that you are in compliance with the law.

The whole "self-promotion" statute is badly drafted in my opinion.

[Quoted text hidden]

John McCormally <jmccormally@gmail.com>
To: Laura Belin <laurarbelin@bleedingheartland.com>

Fri, Jun 4, 2021 at 11:19 AM

Thank you for asking. Yes, my previous email is on the record. But if you are going to use it, I would prefer you use all of it.

As to your questions on IECDB, I would be willing to discuss those on the phone on background.

Glve me a call if you'd like: 515 491 5420

[Quoted text hidden]

Appendix in Support of Motion for Summary Judgment

Page 104

1/3/22, 8:32 AM

Gmail - follow up

E-FILED 2022 MAY 02 2:55 PM POLK - CLERK OF DISTRICT COURT

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John McCormally
515-491-5420