

# Lowell Light & Power

## Policy 1

### Operating Policies and Bulletins

Policy 1-1.....	1
<b>Subject:</b> Operating Policies and Operating Bulletins	
Policy 1-2.....	2
<b>Subject:</b> Investment Policy	
Policy 1-3.....	5
<b>Subject:</b> Michigan Freedom of Information Act: Requests for Public Information	
<b>Subject:</b> Summary of Michigan’s Freedom of Information	



# Lowell Light & Power

## Operating Policies and Bulletins

### Policy 1-1

**Subject:** Operating Policies and Operating Bulletins

**Policy:**

The Board of Light and Power will from time to time pass policies in an effort to ensure uniformity in the overall management of the business. The Board will supplement, amend, and rescind previously adopted policies in order for these policies to remain practical, useful and current.

In adopting policies, the Board has made every effort to be reasonable and practical. Reasonable latitude has been incorporated in each policy so that those who are responsible for administering the policies may use discretion and judgment. However, every policy, program, employment practice and employee and customer relation will be applied without regard to age, race, color, creed, sexual orientation, national origin or marital status.

Final responsibility for the enforcement of the policies rests with the Board of Light and Power. The Board, however, has delegated responsibility, with full authority, to the General Manager for the enforcement of all policies except those which may refer to the conduct of the Board itself. The General Manager in turn delegates certain responsibilities and authorities to his subordinates as he deems advisable in order to carry out the policies. The General Manager, however, remains ultimately accountable to the Board even though he has delegated certain responsibilities and authorities.

In an effort to insure uniformity in the operation of the business within the adopted policies and Board actions, the General Manager is authorized to issue operating bulletins as he deems advisable. These bulletins will be to explain or give certain directions regarding the implementation of given policies. Employees of the business shall thoroughly acquaint themselves with the operating bulletins as compliance with the bulletins is of equal importance as compliance with the policies.

Revised June 4, 2009

# Lowell Light & Power

## Operating Policies and Bulletins

### Policy 1-2

**Subject:** Investment policy

**Policy:**

It is the policy of Lowell Light Power (LLP) to invest its funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow needs of LLP and complying with all state statutes governing the investment of public funds.

**Scope**

This investment policy applies to all assets of LLP. These assets are accounted for in the various funds of LLP and include the general fund, special revenue funds, debt service funds, capital project funds, enterprise internal service funds, trust and agency funds and any new fund established by LLP.

**Objectives**

The primary objectives, in priority order, of LLP's investment activities shall be:

- A.** Safety --Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to insure the preservation of capital in the overall portfolio.
- B.** Diversification--The investments will be diversified by security type and institution in order that potential losses on individual securities do not exceed the income generated the remainder of the portfolio.
- C.** Liquidity --The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.
- D.** Return on Investment --The investment portfolio shall be designed with the objective of obtaining a rate of return throughout the budgetary and economic cycles, taking into account the investment risk constraints and the cash flow characteristics of the portfolio.

# Lowell Light & Power

## Delegation of Authority to Make Investments

Authority to manage the investment program is derived the City of Lowell City Charter, Chapter 16, Section 16.8. Management responsibility for the investment program is hereby delegated to the General Manager of LLP, who shall establish written procedures and internal controls for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements, and banking service contracts. No person may engage in an investment transaction except the General Manager of LLP. The General Manager of LLP shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

## Authorized Investments

LLP is limited to those investments authorized by Act 20 of the Public Acts of Michigan of 1943, as amended. The surplus funds of the DLP and the DCTV may be invested as follows:

- A.** Bonds, securities, and other obligations of the United States, or an agency or instrumentality of the United States.
- B.** Certificates of Deposits, savings accounts, deposit accounts, or depository receipts of a financial institution, but only if the institution is eligible to be a depository of funds belonging to the state under a law or rule of this state or the United States.
- C.** Mutual funds registered under the investment company act of 1940 with the intention to maintain a \$1.00 per share net asset value and purchase only investment by a public corporation.

Investment pools organized under the local government investment pool act, 121 of 1985. (Kent County Investment Pool)

## Safekeeping and Custody

All security transactions entered into by the LLP shall be on a cash (or delivery vs. payment) basis. Securities may be held by a third party custodian designated by the General Manager of LLP and evidenced by safekeeping receipts as determined by the General Manager of LLP.

# Lowell Light & Power

## **Prudence:**

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. The prudent person rule shall be applied in the context of managing the overall portfolio. Investment acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations expectations are reported to the chief executive in a timely fashion and appropriate action is taken to control adverse developments.

## **Reports:**

Within 120 days of the end of the fiscal year, the General Manager shall prepare an annual written report to the governing body concerning the investment of the funds.

Revised June 4, 2009

**Lowell**  
Light & Power

# Lowell Light & Power

## Operating Policies and Bulletins

### Policy 1-3

**Subject:** Michigan Freedom of Information Act: Requests for Public Information

**Policy:**

- A.** Requests must be received in written form. Requests received via FAX, Email or other electronic transmission are considered to be received one business day after the electronic transmission is made.
- B.** A fee may be charged for providing labor or materials needed to provide requested record. The fee will be calculated including actual cost for labor and materials to retrieve the record and fulfill the record requested. If the fee exceeds \$50, a deposit of no more than 1/2 may be required in advance from the requestor.
- C.** LLP will respond to the requesting party within five days from the time the request was received.
- D.** If necessary, LLP may extend the time period for response by not more than ten business days.

**Valid Requests Must Include**

- A.** The name of the requestor
- B.** Mailing address of the requestor
- C.** The date of the request
- D.** Indication as to whether the record is to be reviewed in person, duplicated or mailed
- E.** A statement acknowledging that the requestor agrees to pay all costs (including search, examination, review, deletion, separation, duplication, mailing, etc.) allowable under the FOIA
- F.** Identification of any pending civil action related to the requested record
- G.** A clear description of the specific public record requested, sufficient to enable the staff to find the record

# Lowell Light & Power

Upon receipt, all requests are to be hand delivered to the FOIA coordinator (General Manager).

Revised June 4, 2009



# Lowell Light & Power

## Summary of Michigan's Freedom of Information Act

The following is an updated summary of the basic provisions of the Freedom of Information Act (FOIA) as amended by 1996 PA 553. The actual text of the statute follows in Section II.

### Basic Intent

The Freedom of Information Act regulates and sets requirements for the disclosure of public records by all "public bodies" in the state.

### Key Definitions

"Public body" means a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof. It also includes:

- A. An agency, board, commission, or council in the legislative branch of the state government;
- B. A county, city, township, village, inter county, inter city, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council or agency thereof; or
- C. Any other body which is created by state or local authority or which is primarily funded by or through state or local authority. It does not include private non-profit corporations.

"Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created.

### Coverage

The Freedom of Information Act sets requirements for the disclosure of public records by all "public bodies" in the state. All state agencies, county and other local governments, school boards, other boards, departments, commissions, councils, and public colleges and universities are covered.

### Public Records Open to Disclosure

In general, all records except those specifically cited as exceptions are covered by the Freedom of Information Act. The records covered include minutes of open meetings,



# Lowell Light & Power

officials' voting records, staff manuals, final orders or decisions in contested cases and the records on which they were made, and promulgated rules. Other written statements which implement or interpret laws, rules or policies, including, but not limited to, guidelines, manuals and forms with instructions, adopted or used by the agency in the discharge of its functions, are also covered.

It does not matter what form the record is in. The act applies to any handwriting, typewriting, printing, photostating, photographing, photocopying and every other means of recording. It includes letters, words, pictures, sounds or symbols, or combinations thereof, as well as papers, maps, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content. It does not include computer software.

## Public Records Exempt From Disclosure

A public body may (but is not required to) withhold from public disclosure certain categories of public records under the Freedom of Information Act. The following public records are exempt from disclosure under this act:

- A. Specific personal information about an individual if the release would constitute a clearly unwarranted invasion of that individual's privacy.
- B. Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:
  - a. Interfere with law enforcement proceedings;
  - b. Deprive a person of the right to a fair trial or impartial administrative adjudication;
  - c. Constitute an unwarranted invasion of personal privacy;
  - d. Disclose the identity of a confidential source or, if the record is compiled by a criminal law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source;
  - e. Disclose law enforcement investigative techniques or procedures; or
  - f. Endanger the life or physical safety of law enforcement personnel.
- C. Public records which if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

# Lowell Light & Power

- D.** Records which if disclosed would violate the Family Educational Rights and Privacy Act of 1974 (primarily student records).
- E.** Records specifically exempted from disclosure by another statute.
- F.** A public record or information which is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the consideration originally giving rise to the exempt nature of the public record remains applicable.
- G.** Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy.
- H.** Information subject to attorney-client privilege.
- I.** Information subject to other privileges such as counselor-client and those recognized by statute or court rule.
- J.** Pending public bids to enter into contracts.
- K.** Appraisals of real property to be acquired by a public body.
- L.** Test questions and answers, scoring keys and other examination instruments.
- M.** Medical, counseling or psychological facts which would reveal an individual's identity.
- N.** Communications and notes between and within public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.
- O.** Law enforcement communication codes and employment plans unless the public interest in disclosure outweighs the public interest in nondisclosure.
- P.** Information which would reveal the location of archeological sites.
- Q.** Product testing data developed by agencies buying products where only one bidder meets the agency's specifications.

# Lowell Light & Power

- R. A student's college academic transcript where the student is delinquent on university loans.
- S. Records of any campaign committee including any committee that receives moneys from a state campaign fund. (These records are open to the public under Public Act 388 of 1976).
- T. Public records of a police or sheriff's agency where disclosure would identify an informer, or undercover agent, or reveal the home address, telephone number of an officer or agent, or disclose personnel records of law enforcement agencies.
- U. Records pertaining to an investigation of a health care professional conducted by the Department of Consumer and Industry Services pursuant to the Public Health Code before a complaint is issued.
- V. Records of a public body's security measures.
- W. Records relating to a civil action in which the requesting person and the public body are parties.
- X. Records that would disclose the social security number of an individual.
- Y. Applications, including letters of recommendation and references, for president of an institution of higher learning if the records could be used to identify the candidate. However, records pertaining to persons identified as finalists, except letters of recommendation and references, are not exempt.

## Availability of Public Records

A request must be made in writing and provided to the FOIA coordinator of the public body. A FOIA coordinator may designate another individual to act on his or her behalf to accept requests for processing.

A person may ask to inspect, copy or receive a copy of a public record. There are no qualifications such as residency or age that must be met in order to make a request. However, prisoners in state, county or federal correctional facilities are not entitled to make requests.

Not more than five business days after receiving a request, the public body must respond to a request for a public record. The public agency can notify the requester in writing and extend the time for an additional ten business days.

# Lowell Light & Power

A person also has the right to subscribe to future issuances of public records which are created, issued or disseminated on a regular basis. A subscription is valid for up to six months, at the request of the subscriber, and is renewable.

The public body or agency has a responsibility to provide reasonable facilities so that persons making a request may examine and take notes from public records. The facilities must be available during the normal business hours of the public body.

## Fees for Public Records

A government agency may charge a fee for the necessary copying of a public record for inspection or providing a copy of a public record to a requestor. A public body may also charge for search, examination and review and the separation of exempt information in those instances where failure to charge a fee would result in unreasonably high costs to the public body. The fee must be limited to actual duplication, mailing and labor costs. The first \$20 of a fee must be waived for a person who is on welfare or presents facts showing inability to pay because of indigency.

## Denial of a Record

If a request for a record is denied, written notice of the denial must be provided to the requester within five business days, or within 15 business days if an extension is taken. A failure to respond at all constitutes a denial.

When a request is denied, the public body must provide the requester with a full explanation of the reasons for the denial and the requester's right to submit an appeal to the head of the public body or to seek judicial review. Notification of the right to judicial review must include notification of the right to receive attorney fees and collect damages.

## Enforcement

A person may appeal a final decision to deny a request to the head of the public body. The head of the public body has 10 days to respond to the appeal. Under unusual circumstances, an additional 10 days may be taken.

A person also has the right to commence an action in circuit court to compel disclosure of public records. The suit must be filed within 180 days after the public body's final decision to deny a request.

The action may be brought in the county where the requester lives, the county where the requester does business, the county where the public document is located, or a county where the agency has an office.

# Lowell Light & Power

## Penalties for Violation of the Act

If the circuit court finds that the public body has arbitrarily and capriciously violated the Freedom of Information Act by refusal or delay in disclosing or providing copies of a public record, it may, in addition to any actual or compensatory damages, award punitive damages of \$500 to the person seeking the right to inspect or receive a copy of a public record.

Effective Date: April 13, 1977.

