

Potential GRAMA and Data Manipulation and Fee Principles

GRAMA Task Force – July 19, 2005

	Potential Principle	Related Information	Discussion Ideas	Notes/References
1	<p>The sale or release of lists of names, addresses, and phone numbers used for commercial or fund-raising purposes is an unwarranted invasion of personal privacy</p>	<ul style="list-style-type: none"> ▶ "[T]he right of privacy in relation to personal data gathered by governmental entities" should outweigh other considerations under these circumstances ▶ A person who receives personal identifying information from the Utah Driver License Division may not: <ul style="list-style-type: none"> ▶ disclose the information to any other person; or ▶ use the information for advertising or solicitation purposes 	<ul style="list-style-type: none"> ▶ What expectation of privacy should citizens have with information government required them to provide? ▶ Should data used for "commercial" purposes or "fund-raising" purposes have a different accessibility standard than other purposes like "public" purposes? ▶ How would the distinction be determined or regulated? ▶ Should address and phone number records be considered protected unless specified as public? 	<p>Section 89 (2)(b) New York Freedom of Information Law see http://www.dos.state.ny.us/coog/foil2.htm GRAMA's § 63-2-102(1)(b) § 53-3-109(2) Utah Code Annotated</p>
2	<p>The <u>intended use</u> of a government record by a requestor should make a difference as to:</p> <ul style="list-style-type: none"> ▶ whether the record will be released; and ▶ how much will be charged for: <ul style="list-style-type: none"> ▶ release of the record; and ▶ format manipulations of the record 	<ul style="list-style-type: none"> ▶ The following uses of a government record are very different: <ul style="list-style-type: none"> ▶ seeing it ▶ owning it for a person's own use ▶ owning it for commercial or fund-raising use ▶ re-selling it to others ▶ Most states' laws make no express mention of attaching a fee to a records request based upon the requestor's purpose for the record. 	<ul style="list-style-type: none"> ▶ Is a government record property that can be owned? ▶ Seeing, using, and owning a government record are as different as: <ul style="list-style-type: none"> ▶ visiting a government building, ▶ occupying an office in the building, or ▶ selling the office to a third party 	<p>The federal Freedom of Information Act (FOI) expressly prohibits asking about intended use of information</p> <p>See Tennessee (law makes a distinction for information with "commercial value" and allows the charge of an additional "reasonable" fee. Tenn. Code Ann. § 10-7-506 (c) (1) (2003)).</p>

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3	Government <u>should</u> <u>manipulate, package, summarize, compile, or tailor data</u> for its citizens if "the governmental entity is able to do so without unreasonably interfering with the governmental entity's duties and responsibilities"	Provided under current Utah law	<ul style="list-style-type: none"> ▶ Should government be "required to manipulate" data to fill a request? ▶ When does this work begin to "unreasonably" interfere with the governmental entities duties? ▶ Is this current provision desirable for flexibility with the great variety of organizations it covers or is more specificity needed? 	<ul style="list-style-type: none"> ▶ GRAMA's § 63-2-201(8)(b)(i) & § 63-2-203(2)(a)(i)
4	A government entity's <u>actual cost</u> should be charged to <u>summarize, compile, or tailor a record to meet a person's request</u>	Provided under current Utah law but limited by: <ul style="list-style-type: none"> ▶ hourly staff time may not exceed the salary of the lowest paid employee with training to perform the request ▶ no charge for the first 15 minutes of staff time 	<ul style="list-style-type: none"> ▶ Are these cost reductions reasonable? ▶ Could multiple 15-minute or less requests become burdensome? 	GRAMA's § 63-2-203(2)(a)(i) and (2)(b) and (c)

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5	<p>Fees above actual cost for provided records should be allowed if the records provided are:</p> <ul style="list-style-type: none"> ▶ in a document conducive to data manipulation; or ▶ re-sold 	<p>Since certain uses of government records are beyond the scope of providing "the public's right of access to information concerning the conduct of the public's business," those uses should be treated differently than other GRAMA requests</p>	<ul style="list-style-type: none"> ▶ Is GRAMA intended to: <ul style="list-style-type: none"> ▶ be a check on government; ▶ allow the public's "beneficial" use of government records; or ▶ allow certain individuals to make a profit using government records? ▶ Who should benefit from the provision or sale of government records? <ul style="list-style-type: none"> ▶ citizens ▶ the press ▶ political groups ▶ government agencies ▶ commercial enterprise ▶ How should the fees for providing these records be set? <ul style="list-style-type: none"> ▶ fair market value; ▶ costs plus; or ▶ costs only? ▶ Is government subsidizing a commercial enterprise if fees are too low? 	<p>GRAMA's § 63-2-102(1)(a)</p>

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6	<p>All fees should be uniformly applied unless the requestor is the subject of the record or the requestor's legal rights are directly implicated</p>	<p>Current Utah Law:</p> <ul style="list-style-type: none"> ▶ "encourages" filling a record request without charge when releasing the information primarily benefits the public ▶ provides a presumption that a person who requests a record for a story or report for publication or broadcast is acting to benefit the public 	<ul style="list-style-type: none"> ▶ Should GRAMA establish a more uniform standard for the application of fees? ▶ Should the press be charged by some government entities and not by others? ▶ Should the press get information for free while citizens have to pay for it? ▶ Should a request from the press that requires data manipulation or programming be free or should there be a charge? ▶ Should more fee waivers be added for academic research or non-profit purposes? 	<p>GRAMA's § 63-2-203(4)(a) and § 63-2-204(3)(c)</p> <p>See Idaho (no mention of any fee exemption)</p> <p>See Colorado (fees for copies of electronic records may be reduced or waived if the electronic services and products are to be used for a "public purpose," including nonprofit activities, journalism, and academic research. Colo. Rev. Stat. §24-72-205 (4) (2003)</p>
7	<p>A request for information that is included in a government entity's publications or products should not be subject to GRAMA requests</p>	<p>Government entities should not be required to duplicate their work separately for individual GRAMA requests</p> <p>Government entities should publish information that is frequently requested</p>	<ul style="list-style-type: none"> ▶ Should a request that duplicates information in a government entity's publications be considered "unreasonably interfering with governmental entity's duties and responsibilities"? ▶ How should pre-publication requests and requests that are only slightly different than the information in the published report be handled? 	<p>GRAMA's § 63-2-201(8)(b)</p>

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See also Citizen Action Project at <http://www.citizenaccess.org/>