



OFFICE OF THE
UTAH STATE AUDITOR

Auditor Alert – 2014-2

Subject: GRAMA Compliance

Date: June 20, 2014

Purpose

Periodically we receive reports of government entities misapplying GRAMA laws in what appears to be an effort to shield a government entity from public oversight. Any effort to impede or deny access to a public record not only violates the law but also significantly undermines public confidence.

Since government conducts the people's business, transparent financial operation is a fundamental citizen right and expectation. Every effort should be made to provide government financial information in a timely, accurate, and complete manner. Financial records are public records unless expressly stated otherwise by statute, as noted in *Utah Code* 63G-2-201(2) and 63G-2-301(3)(e).

Common Errors in Applying GRAMA

Data in an electronic format is a record

Some entities have improperly applied *Utah Code* 63G-2-201(8)(a), which does not require the government to create a record, when denying record requests for information that exists exclusively in an electronic format.

Utah Code 63G-2-103(22) states that, "Record means ... **electronic data, or other documentary material regardless of physical form or characteristics.**" Additionally, *Utah Code* 63G-2-201(11) states that, "A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record..."

If a request is made for a record that exists only in an electronic format, the entity should at a minimum provide the electronic record in a format or medium maintained by the entity. However, *Utah Code* 63G-2-201(8)(b) allows the entity to provide the record in a requested format. An entity should consider providing a record in the format requested and do so if not prohibitive. For example, to satisfy a request for payment information regarding a specific vendor that is recorded electronically in the entity's general ledger system, the entity could extract the information from the general ledger and export it to a Microsoft Excel-formatted file.

Arbitrary or excessive fees are not permitted

A government is **not** required to charge a fee for a record request, but **may** charge fees consistent with *Utah Code* 63G-2-203. In order for an entity to charge a fee for a record request, the entity must adopt a uniform fee structure.

An entity may charge for:	An entity may not charge for:
<ul style="list-style-type: none">• The actual cost of providing a record when it is provided in a form other than that which it is normally maintained.• Staff time for direct costs such as search, retrieval, summarization, and compilation, not to exceed the salary for the lowest paid, capable employee.	<ul style="list-style-type: none">• The first 15 minutes of a search.• Allowing the requestor to inspect the record.• Reviewing a record to determine whether it is the subject of the request.