

City of Seattle - Public Rule

Subject: Public Disclosure

Publication:

Effective:

0.0 Background

In May of 2009, the Seattle City Council passed ordinance 122969 requiring all departments to develop and adopt rules by November 1, 2009 indicating how they will implement specific requirements of the Washington State Public Records Act, RCW Chapter 42.56 (the Act). As ordinance 122969 also indicates that departments may work together to adopt rules, and because one rule will provide consistency across departments, this rule will apply to all Executive Branch departments. Because City departments vary greatly in size and complexity, separate departments may develop separate policies that build on this rule to address any unique needs related to their business.

1.0 Purpose

The purpose of this rule is to provide policies and guidelines for all Executive departments (including boards and commissions) for the promotion of consistent procedures and prompt responses to requests for public records, and to provide guidance to those who submit public disclosure requests to Executive departments.

2.0 Definitions

- 2.1 Public Record** means any writing containing information relating to the conduct of the City of Seattle or the performance of any City of Seattle or proprietary function prepared, owned, used or retained by the City of Seattle regardless of physical form or characteristics.
- 2.2 Exempt Information** means any information that is precluded from disclosure under the Public Records Act, or any other law.
- 2.3 Redact** means to 'black out' or obscure a portion of a document.
- 2.4 Administrative Appeal** means an internal departmental process to review denials of public disclosure requests.

3.0 Applicability. This rule applies to all Executive departments, including boards and commissions, and all public records in their custody.

4.0 Policies.

- 4.1 Basic public disclosure training** has been and will continue to be provided city-wide to create a culture of compliance within the city of Seattle. The Department of Executive Administration will work with the Law department to continue conducting regular trainings for all Executive branch Public Disclosure Officers and Executive departments.
- 4.2 Central coordination.** Although individual City departments are not required to coordinate responses to public disclosure requests, one of the challenges and goals for a municipality as large as Seattle is to connect requestors with the appropriate department as soon as possible.
 - 4.2.1 Public Disclosure Coordinator.** There will be a position in the Department of Executive Administration that will function as a coordinator for public disclosure

requests (DEA Public Disclosure Coordinator). To the extent feasible, the DEA Public Disclosure Coordinator will work together with other departmental public disclosure officers to facilitate responses to requests that involve multiple departments.

- 4.2.2 Public Disclosure Log.** The Department of Executive Administration will be responsible for maintaining a centralized public disclosure log of all public disclosure requests submitted to the City of Seattle that will include:
- (a) Tracking of staff time and expenditures related to responses to records requests;
 - (b) Request date; response date; closing date; requestor name; responsible agency(s); referrals to other departments; general subject of request; general information on redactions; and information on appeals and determinations.
- 4.2.3 Public Disclosure Web Portal.** The Department of Executive Administration will be responsible for developing a central public disclosure website to include:
- (a) Areas for the public to access frequently requested records;
 - (b) Links to department websites containing public records related to current issues;
 - (c) A list of city-wide public disclosure officers and their contact information;
 - (d) A form for submitting public disclosure requests;
 - (e) Links to city records retention schedules and/or the City Clerks Records Management Program.
- 4.2.4 Website links.** A list or link to a list including direct contact information for all City of Seattle Public Disclosure Officers, and all applicable City records retention schedules, should be available on each departmental website. At a minimum, each departmental website shall include a link to the public disclosure web portal maintained by the Department of Executive Administration.

5.0 Public Records Requests

5.1 Public Disclosure Officers

- 5.1.1** Each department shall have a designated Public Disclosure Officer and an Assistant Public Disclosure Officer. The Assistant Public Disclosure Officer will carry out all of the functions of the Public Disclosure Officer's duties when the Public Disclosure Officer is not available due to vacation, sick leave, or otherwise.
- 5.1.2** The person serving as the Public Disclosure Officer may change from time to time. The name and contact information for the individual currently serving as the Public Disclosure Officer shall be clearly identified on each departmental website.
- 5.1.3** The Public Disclosure Officer will be available for assistance to the public and may delegate any of their responsibilities to department staff, but remains

ultimately responsible for overseeing compliance with the Public Records Act and this Policy. The Public Disclosure Officer shall:

- (a) Be responsible for implementing department process regarding disclosure of public records;
- (b) Serve as the principal contact point with any requestor who has made a records request, unless the Public Disclosure Officer has delegated the responsibilities for a particular records request to another staff member;
- (c) Coordinate department staff in responding to requests, generally ensuring staff compliance with public records disclosure requirements; and
- (d) Make a decision regarding disclosure and the application of exemptions.

5.1.4 All records requests must be directed to the designated Public Disclosure Officer. After the initial request, all subsequent communications from a requestor should also be directed to the Public Records Officer, unless a staff person has been delegated the responsibilities for a particular request.

5.2 Frequently requested records and retention schedules. Each departmental website shall make non-exempt and frequently requested records available online. In addition, each departmental website shall contain links to all records retention schedules applicable to the department.

5.3 Making a Request.

- 5.3.1** A department may ask that a request for public records be submitted in writing, but a department shall not require written public disclosure requests. Requests delivered orally or by telephone shall be documented, and if possible, verified through written communication.
- 5.3.2** Requests should be made in writing directly to the agency that has custody of the record requested. A department that receives a misdirected request should forward that request directly to the appropriate City department PDO or the DEA Public Disclosure Coordinator.
- 5.3.3** Requestors may submit their request to the Department of Executive Administration Coordinator for assistance in identifying the appropriate agency.
- 5.3.4** A form for submitting requests will be available on the website developed by the Department of Executive Administration (see 4.2.3) to include:
 - (a) Date and time of the request;
 - (b) Name of requestor (preferable, but anonymous requests are acceptable);
 - (c) Contact information for requestor;
 - (d) Date range for records requested;
 - (e) A detailed description of the requested records;
 - (f) Notice that inspection of records is free.

5.4 Responding to a Request.

- 5.4.1 Written responses.** The Act requires that agencies provide a written response to all public disclosure requests within five full business days of receipt, exclusive of weekends and holidays. In other words, if a request is received on a Monday prior to 5PM, typically a response must be sent no later than the following Monday prior to 5PM. Initial responses will do one or more of the following:
- a) Make the records available for review;
 - b) Provide a reasonable estimate of time (See 5.4.2) as to when records will be available;
 - c) Deny the request in whole or in part and cite the specific exemption that applies (See 8.0)
 - d) Ask for clarification;
 - e) Let the requestor know that there are no responsive records;
 - f) Forward any misdirected requests to the appropriate departmental Public Disclosure Officer or the DEA Public Disclosure Coordinator. Misdirected requests should be forwarded as quickly as possible upon determining the appropriate department.
- 5.4.2 A reasonable estimate of time.** Estimates of time required to respond to a request can take into account factors such as the department's resources, staff vacations, overall workload, and the volume and nature of the records involved. The estimated time to fulfill a request may also include the time required to give third party notice.
- 5.4.3 Unclear requests.** In acknowledging receipt of a records request that is unclear, a department may ask the requestor to clarify what records the requestor is seeking. Departments are only obligated to respond to requests for identifiable records, which means a record that staff can reasonably locate. When a request uses an inexact phrase such as "all records relating to" a topic, departments may interpret the request to be for records which directly and fairly address the topic.
- 5.4.4 Large requests – responding in installments.** When a request is for a large volume of records, the department may elect to provide records on an installment basis. In such case, the Public Disclosure Officer should provide a reasonable estimate in the initial written response concerning when the first installment will be available, and if possible, a schedule for future installments. If a requestor does not contact the Public Disclosure Officer within 30 days to arrange for the review of the first installment, the department may deem the request abandoned.
- 5.4.5 Notice of availability.** When the records responsive to the request (or the first installment) are available for inspection, the department will send the requestor a written notification. When the department is producing in installments, this written notification will also provide an estimate of when the next installment will be available.

6.0 Review of public records. Records that have been assembled in response to a request will be available by appointment during normal department business hours (normally 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m.). Appointments shall be scheduled so that they don't interfere with essential department functions. City departments must take reasonable precautions to protect records from damage and disorganization, including assigning individuals to be present during review of public record originals. There is no fee for inspection of public records.

7.0 Copies of public records.

7.1 Deposits. Before copying a record, a department may require up to a ten percent deposit to cover the total cost of requested copies.

7.2 Costs for standard copies. A department may charge .15 cents per page for standard 8 ½ by 11 inch paper copies of public records.

7.3 Non-standard copies. A department may charge its actual cost, including documented staff costs, for copying any non-standard records, such as over-sized maps.

7.4 Electronic records. If possible, electronic records will be provided in the format requested. When existing electronic records are provided by email, there will be no charge to the requestor. When electronic files are burned onto a CD, the requestor may be charged \$1.00 per CD. When records are scanned from paper to .PDF, the requestor may be charged .10 cents per page.

7.5 Electronic databases. Requests for customized data compilations that fall outside standard queries, reports, or formats entails the creation of a new record that may sometimes be obtained at extra cost, upon a prior agreement with the requestor for customized access, and at the department's discretion. Customized access requires specialized knowledge in computer skills and the cost shall be documented and reflect the hourly rate paid to department IT staff.

7.6 Mail. If requested, agencies must mail records to requestors; however the requestor may be required to cover the cost of the postage and shipping materials.

7.7 Installments. If an agency makes a request available on a partial or installment basis, the agency may charge for any copies requested as each portion is provided.

7.8 Waiver. When the actual cost of copies is de minimis, the department may not charge the requestor. Any requests for standard copies of less than fifteen pages of public records may be provided at no charge.

8.0 Redactions and Exemptions. Department responses refusing, in whole or in part, inspection of any public record shall include an identification of the record and a citation to the specific exemption authorizing the withholding of the record (or portion of a record).

8.1 Redactions. Redactions shall be identified along with the specific exemption that applies.

8.2 Documents exempt from disclosure. If the department determines that a record is exempt from disclosure in its entirety, the department shall inform the requestor in writing, including the following:

- (a) A citation of the specific exemption;
- (b) The type of record being withheld;
- (c) If necessary, a short explanation of how the exemption applies to the record;
- (d) The date the record was created;
- (e) The author, recipient, and subject matter, or if otherwise protected, other means of sufficiently identifying particular records without disclosing protected contents.

8.3 Common exemptions. A list of exemptions to disclosure that most commonly apply to Executive department records is attached as Exhibit A.

9.0 Appealing denial of a request.

9.1 Administrative Appeals Officer. Each department shall have a designated administrative appeals officer who shall be responsible for reviewing appeals. The appeals officer shall be an individual within the department who functions in a supervisory position to the department's public disclosure officer. Each departmental website shall include the contact information for the administrative appeal officer.

9.2 Notice. Each departmental website shall include a notification that an administrative appeal of a denial of a public disclosure request must be submitted in writing to the departmental administrative appeals officer.

9.3 Response to appeal. Upon receipt of an administrative appeal, the department shall send a written response to the requestor within two business days. The written response shall do one of the following:

- (a) Uphold the department's denial of the request;
- (b) Modify the department's response to the request;
- (c) Inform the requestor that review of the administrative appeal will require additional time and provide an anticipated date when the review will be complete.