



## City of Seattle Citywide Public Records Act Program

---

### Rule CPRA-01-2016

#### Interim Citywide Policy on Processing Public Disclosure Requests

##### 1. PURPOSE

The purpose of this Policy is to provide Citywide procedures and guidelines for the promotion of consistent and prompt responses to requests for public records, to provide guidance to those who submit public disclosure requests to the City and the City employees who respond to those requests, and to ensure that the City provides “fullest assistance” to requesters.

**Fullest Assistance.** The City’s obligation to provide fullest assistance extends to all requesters. In providing fullest assistance, the City’s goal is to respond to the greatest number of requests from the greatest number of requesters. Fullest assistance does not require the City to ignore or modify its internal business processes for responding to public records requests or to comply with aspects of a request altering the City’s internal administrative matters. Fullest assistance does not mean that the City must acquiesce to demands of one requester if it may detrimentally affect the City’s ability to provide fullest assistance to other requesters, result in damage or disorganization of agency records, or excessively interfere with other essential agency functions.

##### 2. DEFINITIONS

- **CPRA Program** means the Executive and Legislative Department sponsored body that oversees the City’s coordinated Public Records Act line of business across City functions.
- **Person** means an individual, government or corporate entity.
- **Bot request** means a request that is automatically submitted by a computer program.
- **Malware** means hostile or intrusive software and malicious programs that may jeopardize or harm computer systems or equipment.
- **DoS** means a Denial of Service attack, which is an incident with the effect of depriving a user or organization of a resource they would normally expect to have. A DoS attack may take the form of a distributed denial-of-service (DdoS) attack, which is an attempt to make an online service unavailable by overwhelming it with traffic from multiple sources so that genuine users cannot gain access.

- **Extraordinary Request** means a request which involves one of more of the following: exceptionally broad language, substantial, long-term interdepartmental coordination, voluminous quantities of responsive records or data, extensive and detailed legal review, or other significant resource limitations or excessive impacts on essential City functions.

### **3. APPLICABILITY**

This Rule is adopted by the CPRA Program with the intent that the City follows it, including boards and commissions and all others subject to the PRA as the CPRA Program develops rules and regulations governing a Citywide approach to PRA requests.

### **4. RULE**

**4.1 CPRA Program.** The CPRA Program will, among other functions, case manage responses to requests that involve multiple departments.

**4.2 Public Disclosure Web Portal.** The City is in the process of implementing a central public disclosure website, known as the "City of Seattle Public Records Request Center (PRRC)," to include:

- (a) A web portal for submitting, tracking, processing, and providing responses to public disclosure requests;
- (b) information and links to City websites containing frequently requested public records and public records related to current issues, contact information for Public Disclosure Officers, (b), City records retention schedules, the City Clerk's Records Management Program, and other information helpful to requesters;
- (c) The appeals process and responsible appeals officer(s); and
- (d) A list of common exemptions from disclosure.

### **5. PUBLIC RECORDS REQUESTS**

#### **5.1 Public Disclosure Officers**

**5.1.1** Each department shall have a designated Public Disclosure Officer (PDO). Each department will also have a designated alternate PDO to carry out the PDO's functions when the PDO is not available due to vacation, sick leave, or otherwise.

**5.1.2** The person serving as the departmental PDO may change from time to time. The name and contact information for the individual currently serving as the departmental PDO shall be communicated to the CPRA Program Manager who will ensure that the most current information is reflected in both back-end and the public-facing portions of the PRRC web portal.

**5.1.3** The departmental PDO will be available for assistance to the public and may delegate any of his/her responsibilities to department staff, but remains ultimately responsible for overseeing compliance with the Public Records Act and City Policy for his/her department. The departmental PDO shall:

- (a) Be responsible for implementing department processes regarding disclosure of public records;
- (b) Serve as the principal contact point with any requester who has made a records request;
- (c) Coordinate department staff in responding to requests, generally ensuring staff compliance with public records disclosure requirements; and
- (d) Serve as a liaison for the department for Citywide public records initiatives and coordinated responses.

## **5.2 Submitting Requests**

**5.2.1 How to submit a request to the City.** Effective upon implementation of the PRRC, the City's standard, preferred request method will be via the online PRRC web portal.

**5.2.2 Alternate means of submitting requests.** Upon implementation of the PRRC, a requester who does not have access to the PRRC, may submit a request to a designated PDO via USPS mail or in person. The PDO or PDO designee will enter a request received via mail or in person into the PRRC for purposes of tracking, processing, and providing responses to such public disclosure requests.

**5.2.4 The City has no duty to accept automated or "bot" requests.** An automated computer program is not a "person" within the meaning of the PRA, which requires that records be made "available to any person." RCW 42.56.080. Consistent with Washington law, the City interprets the term "person" to mean an individual, government or corporate entity. See, *Gontmakher v. City of Bellevue*, 120 Wn. App. 365, 370, 85 P.3d 926 (2004); see also, RCW 1.16.080 (1). The City does not interpret the term "person" to include an automated computer program. Automated or "bot" requests pose a security risk to the City because they could introduce malware to City systems or be used for a DoS attack on the City. The City has no duty to accept such requests and will deny such requests. The City has the discretion to block any request(s) if it has a reasonable basis to believe that the request(s) pose a security risk to the City or any of its systems or equipment.

**5.2.5 The City does not accept requests via social media or voice mail.** The PRA requires that a requester put an agency on fair notice that it has received a PRA request. *Beal v. City of Seattle*, 150 Wn. App. 865, 876, 209 P.3d 872 (2009). A request's medium is "relevant to its clarity." *Id.* The City cannot ensure that it will properly recognize or even receive a request sent by means other than the City's

adopted procedures. For example, the City will not monitor social media sites or review voice mail on the chance that a requester may attempt to submit a request via one of those methods.

## **5.5 Responding to a Request**

**5.5.1 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 5 p.m., typically a response must be sent no later than the following Monday prior to 5p.m. Initial responses will do one or more of the following:

- (a). Make the records available for review;
- (b). Subject to 5.5.2, 5.5.3, 5.5.8, and 5.9, provide a reasonable estimate of time within which the City will respond to the request;
- (c). Deny the request in whole or in part and cite the specific exemption(s) that applies;
- (d). Ask for clarification;
- (e). Let the requester know that there are no responsive records;
- (f). Forward any requests that may involve multiple departments to the CPRA Program Manager; and/or
- (g). Forward any misdirected requests to the appropriate departmental PDO or the CPRA Program. Misdirected requests should be forwarded as quickly as possible upon determining the appropriate department.

**5.5.2 A reasonable estimate of time.** Subject to 5.5.3, 5.5.8, and 5.9, when the City receives a public records request, the PDO will determine a reasonable estimate of time within which it will respond to the request, factoring in the nature, volume, and availability of the requested records, the amount of time necessary to respond to a particular request as it affects the amount of PDO and non-PDO staff time that can be devoted to the responding to the requests of other requesters, as well as the impact on essential City functions. Specific factors that may affect the response time estimate include, but are not limited to:

- (a). Number of pending requests from the same requester;
- (b). Large number or volume of records requested;
- (c). Complexity or ambiguity of the request;
- (d). Access to database or electronic system records;
- (e). IT staff involvement;
- (f). Records not easily identified, located and accessible;
- (g). Current PDO Staffing;
- (h). Current staffing of any involved City departments;
- (i). Research by City staff;

- (j). Amount of time needed by City staff who are not primarily responsible for public disclosure processing;
- (k). Number of department personnel or other City departments involved;
- (l). Third-party notice;
- (m). Complex review to determine if content is exempt;
- (n). Extensive and complicated electronic redaction;
- (o). Legal review;
- (p). Resolving issues related to retention of responsive records; and/or
- (q). Grouped requests

**5.5.3 Revised reasonable estimate of time.** At any time while processing a response, a PDO may provide the requester with a revised reasonable estimate of time within which the City will respond to the request. A revised estimate of time will be based on the factors detailed in 5.5.2. In addition, a revised reasonable estimate of time may be based on:

- (a) Any unexpected or unforeseen delays encountered during the request processing;
- (b) Additional requests submitted by the same requester while the initial request(s) remain pending; and/or
- (c) Changed circumstances or other considerations ascertained during processing.

**5.5.4 Order of Processing Requests.** In order to allocate resources efficiently and fairly and to provide fullest assistance to all requesters, the City will process requests in the order that allows the greatest number of requests from the greatest number of requesters to be processed.

**5.5.5 Allocating specific amounts of time and resources to requests and requesters.** In order to provide fullest assistance to all requesters and to prevent excessive interference with other essential City functions, a PDO may allocate specific amounts of time and resources to responding to a request, whether individual or grouped, and/or to a particular requester. This may include, but is not limited to, allocating a specific number of hours per week or month to be spent by PDO staff and/or employees for whom responding to records requests is not among their primary assigned duties. The amount of time allocated shall be based on the factors detailed in 5.5.2 and 5.5.3.

**5.5.6 Grouping requests.** In order to provide fullest assistance to all requesters, to prevent damage to or disorganization of City records or excessive interference with other essential City functions, or to assure that the appropriate amount of City time and resources will be fairly allocated among all requests and requesters, a PDO has the discretion to group multiple requests received from the same requester or similar requests from multiple requesters and to process the requests together as a group. The

CPRA Program has the discretion to group requests directed to multiple departments and to process the multiple requests together as a single request. A PDO and/or the CPRA Program has the discretion to process multiple requests received from one individual as a single grouped extraordinary request as defined in 2.6.

**5.5.7 Effect of grouping requests.** When requests are grouped, the City shall process and respond to the grouped requests as a single request. Each requester will receive a duplicate copy of the response as appropriate and desired by the requester.

**5.5.8 Unclear requests.** In acknowledging receipt of a records request that is unclear, the PDO should work with the requester to clarify what records the requester is seeking.

**5.5.9 Extraordinary requests.** When the City receives an extraordinary request, the City may, pursuant to 5.5.1, provide a reasonable estimate of the time it will take to respond. That response may be a denial, clarification or initial plan to locate, retain, review and produce records responsive to the request. The City may, at any time, revise its estimate upon further review or changed circumstances as provided in 5.5.3. In calculating the reasonable estimate of time required for the City to determine how to respond to an extraordinary request, the City shall consider the factors detailed in 5.5.2 and 5.5.3.

**5.5.10 Responding to requests in installments.** Based on the factors detailed in 5.5.2 and 5.5.3, the City may elect to provide records on an installment basis to a request, whether individual or grouped. Subject to 5.5.9, the PDO 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. A PDO may require a deposit prior to processing the request as provided in 6.6.

**5.5.11 Abandoned requests.** The City will deem a request abandoned in the following circumstances:

- (a) If a requester fails to respond to a City request to clarify, whether individual or grouped, within 30 days of the request for clarification;
- (b) If a requester has elected to inspect records, the request, whether individual or grouped, may be deemed abandoned:
  - 1) If the requester fails to contact the PDO to arrange for the review of the first installment within 30 days of being notified that the first installment is available for inspection; or
  - 2) If the requester misses an appointment to inspect responsive records or any installment of records and fails to contact the PDO to arrange another appointment to inspect within 30 days of the missed appointment;
- (c) If a requester has elected to receive copies of records, a request, whether individual or grouped, may be deemed abandoned:

1) If the requester fails to open and download within 30 days copies of responsive records or any installment of records provided to the requester electronically;

2) If the requester fails to pick up within 30 days copies of responsive records or any installment of records provided to the requester for pick up;

3) If the requester fails to pay for copies of any records or any installment of records within 30 days of receiving an invoice for those records; or

4) If the requester fails to pay a deposit within 30 days of notification by the City that it will require a deposit prior to processing a request as provided in 6.6.

**5.5.12 Effect of abandoned request.** Upon deeming a request, whether individual or grouped, abandoned as indicated in 5.5.11, the City will stop processing and close the request. If a grouped request is abandoned, the City has the discretion to stop processing and close all individual requests that have been grouped as a single request.

## 6. RECORDS DELIVERY

**6.1 Standard method of records delivery.** Effective upon implementation of the PRRC web portal, electronic records provided via the PRRC web portal will be the City's primary, preferred delivery method.

**6.2 Alternative methods of records delivery.** Prior to implementation of the PRRC, and at the specific request of a requester at any time thereafter, records may be provided by the following alternate methods:

- Inspection
- In-person pick up
- Paper copies
- Electronic records, including scanned copies, on portable media, i.e., CDs/DVDs/Thumb Drive, or Portable Hard Drive
- By USPS

**6.3 The City is not required to provide records in a particular electronic format.** The PRA does not obligate an agency to provide a record in a particular electronic format. *Mechling v. City of Monroe*, 152 Wn. App. 830, 847-50, 222 P.3d 808, 816-18 (2009) See also, *Benton Cty. v. Zink*, 361 P.3d 801, 806-07 (2015). Government agencies have discretion regarding record formatting and are not required to provide records in the electronic format demanded by a requester. *Mitchell v. Dep't of Corr.*, 164 Wn.App. 597, 606-07, 277 P.3d 670 (2011). The Washington Attorney General's Model Rules suggest that agencies provide records electronically if it is reasonable and technically feasible to do so. WAC 44-14-05001. The Model Rules, however, do not direct a particular format for that delivery; they merely say that agencies can provide copies of electronic records



in an electronic format that is used by the agency. WAC 44-14-050(2), WAC 44-14-07003. The electronic formats used by the City for delivery of records are reflected in 6.1 and 6.2.

**6.4 Appointments for inspection.** The City generally provides for inspection of public records by appointment. The PRA states that public records shall be available for inspection and copying during the customary office hours of the agency. RCW 42.56.090. City records are customarily made available for inspection at the office of the specific department that maintains those records. Records that have been assembled in response to a request will be available by appointment during normal department business hours (normally 9 a.m. to noon, and 1 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.

**6.5 Copying fees.** The City's fees for copies of records shall reflect the fee structure adopted by the CPRA Program.

**6.6 Deposits.** Before copying records for a request, whether individual or grouped, or for any installment, the City may require up to a 10 percent deposit to cover the total cost of copying the records or installment. If a requester fails to pay a deposit within 30 days, the City will deem a request abandoned as reflected in 5.5.11 and 5.5.12.

**6.7 Requesters may not attach devices or cables to City systems or equipment.** Because of the potential for introducing a threat to the security of or otherwise damaging City systems or equipment, the City does not allow requesters to attach or insert their own devices or cables into any City computer system, equipment or USB port. Copying of records from a City system or equipment will be done by City staff. The requester must reimburse the City's cost for the storage media, and such copying will be done by City staff. The PDO has the discretion to make and provide copies at a later date if doing so at the time of inspection would interfere with other agency operations.

