

# City of SeaTac

## Policies and Procedures

<b>Policy Number:</b>	CW-008
<b>Policy Name:</b>	Public Records Disclosure Requests
<b>Department(s):</b>	Citywide
<b>Effective Date:</b>	03/26/2015
<b>Supersedes:</b>	04/02/2012
<b>Prepared by:</b>	Legal Department / City Clerk's Office
<b>Approved by:</b>	Todd Cutts, City Manager
<b>Signature:</b>	

**Purpose:** The purpose of this policy is to establish the procedures the City will follow when handling requests for public records in accordance with the state Public Records Act (PRA).

**Policy:** This policy shall apply to all City departments. This policy does not apply to discovery requests made in conjunction with litigation, subpoenas, or other legal pleadings.

**Authority:** This policy is adopted pursuant to SeaTac Municipal Code (SMC) 2.80.030. See also Policy Number CW-002, Records Management Policy.

### **Procedure:**

#### **I. Location Where Requests for Public Records Shall Be Submitted**

All requests for public records shall be submitted to the Public Records Officer (PRO), or designee, of the City:

Kristina Gregg, City Clerk/Public Records Officer  
City of SeaTac  
4800 S 188<sup>th</sup> Street  
SeaTac, WA 98188  
206.973.4660  
Fax: 206.973.4809  
Email: [cityclerk@ci.seatac.wa.us](mailto:cityclerk@ci.seatac.wa.us)

If a department directly receives a public records request, the request must be forwarded to the PRO on the same day it is received. If a department directly receives a public records request outside of normal business hours, the request must be forwarded to the PRO on the next business day. Any person seeking assistance in making a public records request should contact the PRO.

## II. Form and Manner of Requests for Public Records

A. Requests for public records may come in many forms.

1. Written Requests. Written requests for public records should be delivered in person to the PRO, by mail to the PRO, by facsimile to the PRO, or email to the PRO as set forth below. The City will provide a public records request form that may be used by those requesting public records. The request form can be found on the City's website. The City Clerk and each department shall have copies of the form available for use by those requesting records.
2. Email Requests. All records requests submitted by email must be sent to: [cityclerk@ci.seatac.wa.us](mailto:cityclerk@ci.seatac.wa.us).
3. Verbal Requests Reduced to Writing. Staff should refer all verbal requests to the City Clerk's Office. The PRO or designee will immediately reduce it to writing and then verify in writing with the requestor that it correctly memorializes the request.

The Records request form can be found at [Z:\InterDepartment\PoliciesandProcedures\Citywide\(CW\)\CW-008PublicDisclosureRequestFormRevised2015.pdf](Z:\InterDepartment\PoliciesandProcedures\Citywide(CW)\CW-008PublicDisclosureRequestFormRevised2015.pdf).

- B. Identifiable Record. A requestor must request an "identifiable public record" or "class of records" before the City must respond to it. An identifiable public record is a record in existence at the time of the request and one the City can reasonably locate. The City is not required to create records or documents that do not exist at the time the request is made. The PRA does not allow a requestor, or require an employee, to search through City files for records that cannot be reasonably identified or described to the City staff.

The City shall make available for public inspection and copying all identifiable public records in existence at the time of the request, unless the records fall within a specific exemption, or other statute which exempts or prohibits disclosure of specific information or records.

The PRA defines "public record" to include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the agency. "Writing" means handwriting, typewriting, printing, photo stating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

Court files and judges' files are not subject to disclosure under the Public Records Act. Access to these records is governed by court rules and common law.

- C. Information needed for Requests. Public records requests should include the following information: name of requestor; contact information sufficient to allow the PRO to contact the requestor (such as mailing address, telephone number, or e-mail address); identification of the public records requested so that the PRO may locate the records; date of the request; information sufficient to notify the PRO whether the requestor wishes to have copies of records, or inspection of records.

A requestor need not state the purpose of the request. However, in an effort to clarify or prioritize a request and provide responsive records, the PRO or designee may inquire about the nature or scope of the request. If the request is for a list of individuals, the PRO may ask the requestor if he/she intends to use the records for a commercial purpose. The City is not authorized to provide lists of individuals for a commercial purpose.

- D. Overbroad Requests. The City cannot deny a request for identifiable public records based solely on the basis that the request is overbroad. However, if such a request is not for identifiable public records or otherwise is not proper, the request may be denied. When confronted with a request that is unclear, the PRO or designee should seek clarification from the requestor within five (5) business days of receipt of the request.
- E. Request for information. Requests for information are not public records requests. The City is not required to conduct legal research for a requestor. The City is not required to create a new record in response to a request.

### **III. Initial Response to Requests for Public Records**

The PRO, or designee, must respond to a request for public records within five (5) business days, not including the day the request was received, of receipt of the request. Any request for records received after 5:00 p.m. shall be deemed to have been received on the next business day.

Within five (5) business days of receipt of the request, not including the day the request was received, the PRO, or designee, must provide an initial response to the requestor. The initial response must do one or more of the following four (4) things:

- 1) Provide the records requested or make the records available for inspection or copying. The City may provide access to a public record by providing a requestor with a link to the City's website containing an electronic copy of that record;
- 2) Acknowledge that the City has received the request and provide an estimate of a reasonable amount of time the City will require to fully respond;
- 3) Seek clarification of the request; or

- 4) Deny the request with citation to the statute authorizing exemption and a brief explanation of how the exemption applies to the records. If the request warrants denial or requires redaction, such action should be taken after consultation with the City Attorney's office.

#### **IV. Processing of Requests for Public Records**

- A. Order of Processing. The PRO will process requests in the order allowing the most requests to be processed in the most efficient manner. The PRO will date stamp the request, and assign a tracking number upon receipt. The PRO will be responsible for monitoring the progress of requests.
- B. Providing records in installments. When the request is for a large number of records, the City may provide access for inspection and copying in installments. If, within thirty (30) days, the requestor fails to claim or inspect the installment of records, the City may stop searching for the remaining records and close the request. If the City processes a request on a partial or installment basis, the City may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the City is not obligated to fulfill the balance of the request.
- C. Responsibilities of PRO. The PRO will be responsible for coordinating the responsive records with the designated department representatives, determining and inquiring to departments or staff where responsive records may be located and how long the departments or staff estimates it will take to fully provide the responsive records. Based on the information provided by the representative, the PRO will determine the estimate for fully responding to the request. Fully responding can mean processing the request (searching for records, assembling records, redacting, preparing a withholding index, or notifying third parties named in the records who might seek an injunction against disclosure) or determining if the records are exempt from disclosure.

Once the PRO determines where responsive records may be located, the PRO will route copies of the request form and any back up documentation to the designated department representative(s) where responsive records may be located.

The PRO will communicate with the requestor as necessary regarding responding to the request, clarifying the request, providing installments, paying fees, and closing the request. However, the PRO may request staff to communicate directly with a requestor if the nature of the request is very technical and requires the knowledge of staff in that area to help clarify.

- D. Responsibilities of Department Heads. Each department head will designate one representative, and one back up representative, from each department and/or division to be the main contact between the PRO and their department/division.

- E. Responsibilities of Designated Staff Representatives. The designated staff representatives will be the main contact for their department/division related to public records requests. The PRO and representative will work together to process a request. Prior to the expiration of the 5 day notice deadline, the representative(s) must notify the PRO whether records responsive to the request are located within their department and provide an estimate of time/date to fully providing the responsive records. The representative will also assemble the records and notify the PRO when the records are ready for disclosing.

When the records are provided to the PRO, the representative will return their copy of the request form with a list of the records being provided as well as the time it took to fully respond. (Department head signatures are no longer required on the request form.)

- F. Responsibilities of Staff. All City staff shall promptly respond to inquiries about public records requests from their department representative or the PRO. Staff will search records within their department or area of responsibility upon request for records that are responsive to the public records request and notify their department representative.

The PRO or designee will complete the original request form (action taken, approximately how much time it took to fulfill, etc) and maintain the form along with a copy of the response letter with a list of the records that were provided per the retention guidelines.

- G. Redactions and exemptions. Some records are statutorily exempt from disclosure, in whole or in part. Exemptions are permissive rather than mandatory. However, the City has no discretion to disclose or release a record or portion of a record when a statute makes it confidential or otherwise prohibits disclosure. The PRO will work directly with the City Attorney's Office to determine whether records are exempt or require redactions. The PRO will prepare an exemption log (also referred to as a withholding index). The exemption log will identify the specific statutory exemption and provide a brief explanation of how the exemption applies to the record being withheld. If only a portion of a record is exempt, the PRO will work with staff to redact the exempt portions, produce the nonexempt portions, and prepare the exemption log.

## **V. Enjoinment of Public Records**

Pursuant to RCW 42.56.565, the City may seek to enjoin the inspection or copying of nonexempt public records by persons serving criminal sentences in state, local, or privately operated correctional facilities.

Pursuant to RCW 42.56.540, the City or its representative or a person who is named in the record or to whom the record specifically pertains may seek to enjoin inspection of the public record upon motion and affidavit filed with the King County Superior Court.

## **VI. Inspection of Public Records**

Public records subject to disclosure under the PRA are available for inspection and copying during normal business hours of the City, Monday through Friday, 8:30 a.m. to 5:00 p.m., excluding legal holidays. Inspection should occur at a time mutually agreed (within reason) by the City and requestor. The inspection and copying of records cannot create excessive interference with the other essential functions of the City. Inspection times can be broken down into reasonable segments such as half days. However, inspection times cannot be broken down into unreasonable segments to either harass the City or delay access to the timely inspection of records.

The City may require staff to observe the inspection of records by the requestor to ensure they are not destroyed, disassembled, altered, or removed from the inspection area. A requestor cannot alter, mark on, or destroy an original record during inspection. To select a paper record for copying during an inspection, a requestor must use a nonpermanent method such as a removable adhesive note or paper clip. After inspection is complete, PRO shall make the requested copies or arrange for copying.

## **VII. Format of Certain Records**

Any records or portions of records disclosed by the City will be provided to the requestor in the same format as they are retained. If the requestor requests a different format, the City may disclose the records in the requested format if (1) it is determined that disclosable records exist; (2) the City is capable of providing the records in the format requested; (3) the format requested is reasonable; and (4) the requestor agrees to pay all fees associated with providing copies of records in the format requested.

## **VIII. Fees and Postage**

No fee shall be charged for the inspection of public records requests. The requestor shall pay all duplication fees in accordance with the City's fee schedule which can be seen at [www.ci.seatac.wa.us/](http://www.ci.seatac.wa.us/). Postage shall also be paid if applicable. Payment of duplication and/or postage shall be made prior to providing copies of public records. All payments shall be made payable to the City of SeaTac. Payment can be made in person or sent by mail to the Finance Department, City of SeaTac, 4800 South 188<sup>th</sup> Street, SeaTac, WA 98188. A person shall provide proof of payment (receipt) before the records can be released.

The cost of electronic copies of records on a CD-ROM or DVD shall be in accordance with the City's fee schedule. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee.

The City may provide copies of records at no charge to individuals or government agencies doing business with the City if the Department Head, or designee, determines such action to be in the best interest of the City.

**IX. Deposit for Copies of Records**

When copies are requested and it is estimated that the duplication fees applicable to a particular records request exceeds \$25.00, the City, at its discretion, may require the requestor to deposit a sum equal to 10% of the estimated cost prior to duplication of the records. In the event that a deposit is required, the City will notify the requestor of the necessity of the deposit prior to any duplication of records. In the event that the actual duplication and deposit fees are less than the amount deposited by the requestor, the City will return the sum in excess of the actual amount to the requestor.

**X. Appeal**

Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the PRO for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the PRO denying the request. If a department directly receives an appeal, the appeal must be forwarded to the PRO on the same day it is received. If a department directly receives an appeal outside of normal business hours, the appeal must be forwarded to the PRO on the next business day.

The PRO shall promptly provide the petition and any other relevant information to the City Manager or other City official designated by the City to conduct the review. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the City's receipt of the petition, or within such other time as the City and the petitioner mutually agree to.