

LEGISLATIVE DEPARTMENT PROCEDURES

Effective Date: April 27, 2009

Replaces: POL D309

Refer also to: RCW 42.56; SMC 3.104.010;

City Records Retention Schedule;

Seattle City Charter, Article XXII, Section 3;

Ordinance 122969

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PRO D309

PUBLIC RECORDS DISCLOSURE PROCEDURES

1. PURPOSE

- 1.1 The purpose of this document is to detail the Department-wide procedures for compliance with the Washington State Public Records Act, Chapter 42.56 RCW as well as other laws which may require, permit, or prohibit the disclosure of various types of public records or information in the custody of and maintained by the Legislative Department.

2. ORGANIZATION AFFECTED

- 2.1 City of Seattle Legislative Department
 - 2.1.1 City Council
 - 2.1.2 Central Staff
 - 2.1.3 Office of the City Clerk
 - 2.1.4 Administrative Services

3. PUBLIC RECORDS OFFICER

- 3.1 The Public Records Officer (PRO) serves as the official point of contact for members of the public seeking disclosure of public records in the custody of the Legislative Department pursuant to the Washington State Public Records Act, Chapter 42.56.
- 3.2 The PRO oversees Legislative Department compliance with the Public Records Act.
 - 3.2.1 Coordinates department response to requests.
 - 3.2.2 Develops and implements department policies regarding the disclosure of public records.
 - 3.2.3 Creates public records disclosure training protocols.
 - 3.2.4 Conducts staff training on public records disclosure compliance.

4. REQUESTS FOR PUBLIC RECORDS

- 4.1 Requests for the disclosure of public records should be made in writing using the Legislative Department's Request Form. Letters, electronic mail, and facsimiles are accepted provided they contain the requisite elements: name, date, address, telephone number and/or email address of the requestor, and adequate identifiable information of the records being requested. Verbal requests are accepted, but a written record of the request must be created and confirmed with the requestor.
- 4.1.1 Requests received at the Reception and Information Desks (via fax, mail, email, telephone) should be converted to **PDF** and emailed to the PRO. The original request should be delivered in the normal manner, through the interoffice mail system. In the case of a telephone request, the information should be transcribed and the written record converted to **PDF**.
- 4.2 All requests for the disclosure of public records must be directed to the Department's Public Records Officer (PRO) with the exception of requests identified in 4.2.2.
- 4.2.1 Requests received by individual offices shall be forwarded to the PRO without delay. The Public Records Act mandates a written response within five days of receipt of a request from the PRO.
- 4.2.2 In furthering the Department's commitment to transparency, offices may provide documents that are already in the public domain and readily accessible. This includes such items as press releases, finalized legislation and committee handouts. In the event a request is received for such items as newsletter mailing lists, Council Visitation Logs, Public Comment and Committee Sign-In Sheets, an affidavit certifying the records will not be used for commercial purposes is required **prior** to its release as provided for in RCW 42.56.070(9).
- 4.2.3 If there is question as to whether the documents are in the public domain, or if the request is one that requires a formal search of records or a comprehensive response, refer the request to the PRO.
- 4.3 The following Legislative Offices shall designate a Public Records Liaison responsible for gathering and providing responsive records to the Public Records Officer.
- 4.3.1 Individual City Councilmember Offices
- 4.3.2 Central Staff
- 4.3.3 Office of the City Clerk
- 4.3.4 Administrative Services

- 4.4 The PRO shall notify designated liaisons via email of a request immediately upon receipt. The email shall detail the records being sought and provide a date by which the records are to be provided to the PRO.
- 4.5 Each liaison shall respond in writing as to whether or not their office holds responsive records to the request by the designated deadline.
- 4.6 Each office is responsible for ensuring it has provided all records responsive to a request by the designated deadline.
- 4.7 All communications between the PRO and liaisons are to be maintained as official records of the request.

5. INITIAL RESPONSE TO REQUEST

- 5.1 The PRO shall respond to all requests for the disclosure of public records within five business days of the original receipt. The five day rule is calculated according to RCW 1.12.040 which holds that “the time within which an act is to be done, as herein provided, shall be computed by excluding the first day, and including the last, unless the last day is a holiday, Saturday, or Sunday, and then it is also excluded.” Requests received after 5:00 PM shall be deemed as received on the next business day. Responses shall be made in one of the following manners:
 - 5.1.1 Providing the requested records.
 - 5.1.2 Denying the request with a written explanation of why.
 - 5.1.3 Acknowledging the request in writing and giving a reasonable estimate of the time required to respond.
 - 5.1.4 Asking for clarification of the request in writing.
- 5.2 The initial response shall include a copy of the original request.
- 5.3 The PRO shall forward misdirected requests for the disclosure of public records to the appropriate City department(s) and notify the requestor of this action. Misdirected requests are defined as those requests for records that are neither in the custody of the Legislative Department nor the responsibility or authority of the Legislative Department.
- 5.4 The PRO may notify a person named in a request for the disclosure of public records prior to releasing the records. Third-party notification as provided by RCW 42.56.540 may be given when the individual named in the request may believe the information is sensitive but not excluded by exemption.

6. PRODUCTION OF RECORDS AND INSTALLMENTS

- 6.1 The PRO shall make available for inspection and copying responsive records to a request, unless the record falls within a specific exemption,

during normal business hours. Appointments are required and must be scheduled with the PRO.

- 6.2 Records provided in response to a request shall be those records existing at the time the request was made. The Department is not required to create records to satisfy a request nor must it produce records created after the request was made.
- 6.3 Records that are determined to be exempt from disclosure will be redacted or withheld. A redaction log will be created and provided to the requestor citing the appropriate exemption along with a written explanation of its application. Requestors may be notified in advance if a substantial number of responsive records will be unavailable.
- 6.4 The PRO shall prioritize requests in such a way that maximizes Department responses. Requests requiring little effort shall be filled without delay even if received after a request requiring a more dedicated effort. Prioritizing requests allows the PRO to process a greater number of requests in the least amount of time.
- 6.5 Records that are part of a larger set of requested records may necessitate delivery by installments as they are assembled or made available for public inspection or disclosure. Large requests may require 10% of the estimated cost. (Large request is defined to mean 500 pages or more)
- 6.6 Should a requestor fail to review or retrieve records or an installment of records within thirty days of notification, the PRO will discontinue assembling installments, return the documents to their original location, and notify the requestor in writing the request has been closed.
- 6.7 A new request shall be submitted to review records that have been re-filed resulting from failure to review or retrieve responsive records.

7. RETENTION OF PUBLIC RECORDS FOR THE PURPOSE OF DISCLOSURE

- 7.1 All Legislative Department employees shall appropriately maintain their records in accordance with State and City approved records retention schedules. Each employee is responsible for protecting their records from destruction and disorganization. For guidance, please review City approved retention schedules.
- 7.2 Records that have passed their required retention period, but are still in the possession of the department at the time a request is made for them must be maintained in their original form until the request has been resolved and shall be retained for one calendar year following fulfillment of the request.

7.3 The PRO shall maintain a log of all requests received and a copy of all documents provided in response to a request.

8. **FINAL RESPONSE**

8.1 A request is considered complete once a requestor has been notified in writing that all responsive documents have been compiled and are available for review and/or delivery.

8.2 In the event additional responsive records are discovered that existed at the time the request was made, the requestor will be promptly notified by the PRO and provided an opportunity to review and or copy the records.

9. **DENIAL PROCESS**

9.1 A requestor may appeal the denial of access to a public record to the designated appealing authority within five days of receipt of the denial letter.

9.1.1 The Administrative Director, as the designated appealing authority, shall review the denial and issue a decision affirming, modifying, or overturning the denial of access within two business days.

9.1.2 The designated appealing authority's decision is a final administrative action for purposes of appeal to Superior Court.

10. **FEES AND COSTS**

10.1 There is no cost to review or inspect records responsive to a request.

10.2 The PRO shall provide and encourage electronic delivery of responsive records at no cost to the requestor whenever possible.

10.3 Paper copies will be provided at fifteen (15) cents per page per RCW 42.56.070(8). Documents scanned to CD will incur a \$5.00 fee per CD. Mailed items will incur the cost of copies plus the actual cost for postage and container or envelope. Other fees as adopted by the Office of the City Clerk may be applicable.