How to Request Washington Public Records
You're after public records?
It can help to know the ropes

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KEY TIP

Washington's courts have recognized the Public Records Act, RCW 42.56 et seq. ("PRA"), as a strongly worded mandate for disclosure of public records. A clearly worded request that provides pertinent information can help speed up access to the public records you seek.

WHO CAN MAKE A REQUEST?

The PRA generally does not distinguish among requestors.

A requestor does not need to disclose his or her identity or the reason for the request, and with a few exceptions, an agency cannot limit access based on the requestor's use, although an agency is permitted to ask the purpose of the request to facilitate the response.

One notable exception is RCW 42.56.250(8), which exempts photographs and month and year of birth in the personnel files of employees or volunteers of a public agency, including employees and workers of criminal justice agencies, except when requested by the news media.

In addition, agencies may not provide "access to lists of individuals requested for commercial purposes." As a result, when a request seeks or would result in a list of names, agencies can and do ask for confirmation that the request is not for a commercial purpose. (If a journalist makes a PRA request, it is not a "commercial purpose"; rather, the purpose is newsgathering.) Another example is a request by prison inmates or civilly committed sexually violent predators, in which case an agency may consider the purpose for the request.

There is no limit to the number of requests a person may make, although as a practical matter, making multiple requests on a related matter may cause confusion within the agency and cause delays.

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WHAT CAN BE REQUESTED?

The PRA applies to written records, not information.

A public record must contain information relating to the conduct or performance of government that is prepared, owned, used, or retained by a state or local agency, regardless of the physical form or characteristics. **Thus, an agency must only provide records that exist when the request is made and has no obligation to create a record in response to a request.**

A request must seek an identifiable record that an agency employee could reasonably identify based on the description in the request.

Even if a record fits the definition of a public record under the PRA, all or part of a record may still be withheld if it contains information falling within any of the hundreds of exceptions in Washington law.

These exemptions include:

(1) certain investigative, law enforcement, and crime victims' records;

(2) preliminary notes and recommendations;

(3) health, education, and library records; and

(4) financial, commercial, and proprietary information, among other exemptions. The government agency bears the burden of establishing that it may refuse inspection or copying of the record.

A request does not need to mention the PRA specifically, and there are no "magic words" required. **However, a best practice would be to state that the request is made under Chapter 42.56 RCW.**

The request does not need to specify the document; the request can be for categories such as "meeting minutes." Bear in mind, however that the PRA specifically states that a request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records. (A request for all records relating to a particular topic or containing a particular keyword or name is still an acceptable request.)

Providing as much information as possible can save time.

So, for example, describing the types of records sought, the subject matter, the names of individuals or locations, when the records may have been created, or any other relevant time period will help the agency locate the records. If a request is too vague, an agency may request clarification, which can cause delays.

SUBMITTING A REQUEST

An agency should have an individual such as a "Public Records Officer" designated to respond to PRA requests, so directing a request to the "Public Records Officer" is recommended.

The Washington State Register has a list of public records officers, and for local agencies, the information should be posted on the agency's website.

- Although checking an agency's website for information about to whom and where a request should be sent is not required under the PRA, doing so may speed up the process by getting the request to the right person.

- Similarly, while there is no official PRA format, using an agency's form (assuming the form is reasonably comprehensive) may prevent delays.

A request for records can be made orally.

- However, as a practical matter, an agency will be more likely to be able to identify the records if there is a writing to reference.

- Also, an oral request will be more difficult to prove if there is a dispute over whether an agency complied with the PRA.

- If a request is made orally, a best practice would be to follow up the request in writing.

A requestor does not have to name the department or organization to which the request is made or where the records are located.

- Rather, a request can be made merely to an "agency," which includes all departments and sub-units of that agency.

- Again, however, a response may come faster if an agency knows where to look.

REDACTIONS

If an entire public record or portions of a record are exempt from disclosure, an agency must redact only the exempt portions and provide the rest of the record, unless the records are entirely exempt.

If the agency redacts or withholds a record, the agency is required to provide an explanation for the withholding or redaction of each document.

A requestor should remind the agency to redact or withhold only those portions of a request that the agency believes are exempt, release the rest of the record, and provide a log explaining what is withheld and the basis for the redactions.

TIMING

After receiving a PRA request, an agency must respond within five business days by either providing the record, denying the request, or acknowledging receipt of the request and giving a reasonable estimate of the time needed to respond.

- If an agency does not respond within that timeframe, the requestor should follow up.
- The PRA requires an agency to respond within five days of receiving the request; failing to do so is a statutory violation.
- It is common for an agency to deny the request or respond with an estimate of when the records may be available.
- If some records are needed sooner than others, a requestor should say as much in the request.
- If a large volume of records is requested or some records are likely to take more time to locate than others, a requestor can ask that the records be made available on a rolling basis as the records become available, rather than as a single production when all responsive records are located.
- Again, when the agency does begin producing records, it must disclose what documents are being withheld and the basis.

ADDITIONAL TIPS

- Do keep track of whether the agency fully responded to your request, what was said and when. This will help if a requestor must take legal action to get access to any withheld documents.
- Don't make multiple requests for the same thing if you don't get a reply, as that may cause confusion later. The better approach would be to follow up on the original request.
- Do provide contact information and encourage the public records officer to reach out with questions.
- Do ask for a specific format if needed, although as noted previously an agency is not required to create a record to fit a chosen format and may not have the technology to create the record in a preferred format.
- Do say whether you want to inspect the records, copy them, or both. Agencies may charge a fee for the copies; a requestor can ask for an estimate of the copy charges before the copies are made.
- Don't combine a public records request with other correspondence to an agency or bury it in other types of documents you submit.
- Don't assume the request covers documents created after the request. To obtain new records created after the date of your request, you should submit a separate "refresher" request.

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