

Cowlitz-Wahkiakum Council of Governments  
**Public Records Request Policy**

**PURPOSE:** The purpose of this policy is to ensure compliance with the provisions of the Washington Public Records Act, Chapter 42.56 RCW, and other applicable law relating to the public records in custody of and/or maintained by the CWCOG.

**OBJECTIVE:** In applying this policy, the Public Records Officer and staff dealing with public records shall interpret this policy so that its provisions are liberally construed to promote access to public records, to provide for the fullest assistance to a requestor, to provide the most timely possible action on requests, so as to ensure continuing public confidence in governmental processes, and so as to ensure that the public's interest in the conduct of CWCOG will be fully protected.

**STANDARDS:**

The following definitions apply in the context of this policy:

Public Record means any writing containing information relating to the conduct of government or the performance of any CWCOG function prepared, owned, used or retained by the CWCOG regardless of physical form or characteristics (RCW 42.56.010(3)).

Identifiable Records: A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used or retained by the CWCOG is not a valid request for identifiable records provided that a request for "all records" regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of the agency's records. (RCW 42.56.080)

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 any 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 (RCW 42.56.010(4)).

**STRUCTURE:**

- 1) The CWCOG shall make available for public inspection and copying all identifiable public records, except as otherwise provided by law. Public records shall be available for inspection and copying during the customary office hours of the CWCOG, Monday through Friday, excluding legal holidays. (RCW 42.56.080, 42.56.090)
- 2) The CWCOG does not maintain an index of records available for public inspection pursuant to RCW 42.56.070(4) as it exists or as it may be amended in the future. The CWCOG has determined that indexing of its records is unduly burdensome due to the diverse, voluminous and incompatible basis of current record storage. CWCOG may have internal use indexes or databases that are available to assist in locating public records.
- 3) The CWCOG Public Records Request policy and/or any such procedures shall be disseminated in a way reasonably calculated to provide notice to the public including being available at the administrative offices of the CWCOG, posting on the CWCOG's internet site, and at the discretion of the Executive Director, in selected CWCOG publications. (RCW 42.56.040, WAC 44-14-02001)

- 4) The CWCOG Public Records Officer position, to whom members of the public may direct requests for disclosure of public records and who will oversee the CWCOG's compliance with the Public Records Act and this policy, shall be made in a way reasonably calculated to provide notice to the public including posting at the administrative offices of the CWCOG and, at the discretion of the Director, in selected CWCOG publications. (WAC 44-14-020, 44-14-02002)

The initial public contact email address for a records request shall be [cwcog@cwcog.org](mailto:cwcog@cwcog.org) from which the request shall be forwarded to the current Public Records Officer.

*Duties:* Public Records Officer means a position whose set of responsibilities is to facilitate the prompt and efficient response to any Public Records Request submitted to the CWCOG, who shall serve graciously as a point of contact for members of the public requesting disclosure of public records, and to oversee the CWCOG's compliance with the Public Records Act. A designee may be assigned to assist the Public Records Officer in fulfilling a request. The Public Records Officer or designee will provide the fullest assistance to requesters; ensure that the public records are protected from damage or disorganization; and prevent fulfillment of public records requests from causing excessive interference with essential functions of the CWCOG. This position's responsibilities may be assigned by the Executive Director to an existing position within the CWCOG.

The Public Records Officer is authorized to promulgate public records procedures to ensure, to the extent practicable, compliance with this policy, the Washington Public Records Act and related laws.

The Public Records Officer shall attend training classes on the Washington State Public Records Act, and continue training as needed to stay current with State regulations. (RCW 42.56.152, WAC 44-14-00005)

#### **GUIDELINES:**

Fees. No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. (RCW 42.56.120)

A reasonable charge may be imposed for providing copies of public records and for the use by any person of CWCOG equipment to copy public records. Charges for photocopying shall not exceed the amount necessary to reimburse the CWCOG for its actual costs directly incident to such copying.

- 1) Charges for photocopies shall be imposed in accordance with the actual per-page cost or other costs established and published by the CWCOG. To the extent the CWCOG has not established the actual per-page cost for photocopies of its public records, it may not charge in excess of fifteen cents per page, or as otherwise provided by state law. Requests of a significant nature and magnitude may be copied by a commercial vendor and will be subject to a deposit, based on the estimated cost, before copying.
- 2) The actual cost of postage, delivery charges, containers or envelopes used to mail the records to the requestor may be charged.
- 3) The CWCOG may require a deposit in an amount not to exceed ten percent (10%) of the estimated cost of providing copies for a request. If the CWCOG makes a request available on a partial or installment basis, the CWCOG 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 CWCOG is not obligated to fulfill the balance of the request. The CWCOG may also require payment in full prior

to providing all the records whether they include all of the records or an installment.

Protection of Public Records. No person shall knowingly alter, disorganize, deface or destroy public records of the agency. Original public records of the agency shall not be removed from the possession of the agency except in the case of commercial copying. The Public Records Officer is authorized to promulgate policies to ensure, to the extent practicable, that requested records are not removed from the premises nor portions thereof removed by any member of the public. (RCW 42.56.100)

Retention. Public records of the agency shall be retained in accordance with retention schedules, or any exceptions to those schedules promulgated by the Washington Secretary of State. No public record scheduled for destruction under an applicable retention schedule shall be destroyed while the record is subject to a pending public records request. (RCW 42.56.100, WAC 44-14-03005)

Exemptions. The agency has the right to determine that a public record requested in accordance with the procedures outlined in this policy is exempt under the provisions of the Washington Public Records Act (RCW 42.56.230 through 42.56.480) or other laws. Such other laws are listed in Attachment A - Exemptions but not limited to Rights to Privacy (RCW 42.56.050, 42.56.540). The agency reserves the right to delete identifying details when it makes available, or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by the Washington Public Records Act (RCW 42.56.210) or other law.

Denials. All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific statutory or case law basis authorizing the withholding or redacting of the record, a description of the record or portion withheld, and a brief explanation of how the exemption applies to the record withheld. (RCW 42.56.210(3))

Any person who objects to the initial or partial denial of a records request may seek reconsideration of that decision in writing to the Public Records Officer. The request shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request. A written request for review shall be made within two (2) business days of the decision to deny the request.

The Public Records Officer or designee, following receipt of the written request, shall promptly review the request and any other relevant information and may consult with the agency's Attorney before action on the request. The Public Records Officer or designee shall promptly affirm or reverse the denial. (RCW 42.56.520(4))

Judicial review of all agency decisions to deny a public records request may be made pursuant to RCW 42.56.520 through 42.56.550. (WAC 44-14-080 applicable to whole section)

Public Records Request Form. The Public Records Officer is authorized to adopt, and from time to time amend or modify a Public Records Request Form for general use.

#### **PROCEDURES:**

In accordance with requirements of the Washington Public Records Act that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

1) *Written Requests.* A request shall be made in writing and delivered to the offices of the CWCOG

during their office hours of 8:30AM and 5:00PM upon a form prescribed by the agency which shall be available at the offices where records are maintained. A request that is made other than upon the form prescribed by the office is permissible, but must provide the information listed in (a) through (e) of this section. The request form shall be presented to the Public Records Officer at the office during the office hours specified in this policy. The request shall include the following information:

- a. The name of the person requesting the record, together with appropriate contact information;
- b. The time of day and calendar date on which the request was made;
- c. The nature of the request;
- d. If the request is for a list of individuals, the requestor shall certify that the request is not for commercial purposes, except as provided by State law; and
- e. The requestor, at his/her option, may provide additional information necessary to determine the application of a statute or other law authorizing disclosure or exemption from disclosure of the requested record(s).

In all cases in which a member of the public is making a request, it shall be the obligation of the Public Records Officer or his/her designee to assist the member of the public in appropriately identifying and locating the public record requested.

- 2) *Informal Requests.* Certain forms which have customarily been open to public inspection and/or copying, may, at the option of the Executive Director, be inspected or copied without requiring such requests in writing.
- 3) *Lack of Existing Records.* The CWCOG is not required to create documents in order to comply with a request for specific information or to perform research, retrieve data, provide analysis, information or any report relating to the conduct of CWCOG business when no document exists that is responsive to the request. (WAC 44-14)
- 4) *Excessive Interference.* Consistent with other demands and resources, the CWCOG may adopt policies to prevent the fulfilling of public records requests from causing excessive interference with the essential functions of the CWCOG.
- 5) *Timeliness of Response:* (RCW 42.56.520(1-4)) Upon receipt of a request for disclosure of public records, the agency shall respond promptly within five (5) business days (not including government recognized holidays) of receiving a public records request, the agency shall respond by:
  - a. Providing the requested record; or
  - b. Providing an internet access and link on the agency's website to the specific records request, except that if the requestor notifies the agency that he or she cannot access the records through the internet, then the agency must provide copies of the record or allow the requestor to view copies using an agency computer; or
  - c. Providing a portion or an installment of the record pending completion of action on the request; or
  - d. Acknowledging that the office has received the request and providing a reasonable estimate of the time the office will require to respond to the request; or
  - e. Denying the public records request. Agency responses refusing in whole or in part the inspection or copying of a public record shall include a statement of the record or portion of the record that is being denied and provide the specific exemption authorizing withholding of the record or

any part thereof.

- 6) *Amended Timelines*: If for reasons given below, additional time is needed in excess of the 5 five (5) business days, this too shall be communicated in the initial response to the requestor. Additional time to respond to the request may be needed in order to:
  - a. Clarify the intent of the request (see section 8 *Clarifying Requests*); and/or
  - b. Locate and assemble the records requested; and/or
  - c. Notify third parties or agencies affected by the request; and/or
  - d. Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.
- 7) *Efficiency & Cost Effectiveness*: The Public Records Officer, at the time of the initial response to the requestor and provision of the estimated timeline, may also provide additional information or propose an alternative form of delivery in order to provide a more efficient and cost-effective process in fulfilling the request. (WAC 44-14-05001, 05002, 05003, 05004, 05005) This may include:
  - a. The use of an File Transfer Protocol (FTP) site, cloud based file transfer site or alternative form or device for the conveying of records especially if records are of a voluminous amount and/or requested specifically in electronic format; or
  - b. Noting alternative avenues due to limitations to the CWCOG's equipment or resources in fulfilling the request.
- 8) *Clarifying Requests*: In acknowledging receipt of a public records request that is unclear, the agency may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request within fourteen (14) days, the agency may notify the requestor in writing that no response to the request will be forthcoming.
- 9) *Ethics*: Above all, requests shall be fulfilled in alignment with the full intent of the law(s) applicable to public records requests.

"The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments they have created. The public records subdivision of this chapter (RCW 42.56) shall be liberally construed and its exemptions narrowly construed to promote this public policy." (RCW 42.56.030)

"Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials and others." (RCW 42.56.550(3))